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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1989/33

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I. INTRODUCTION

1. At its forty-first session, the Commission on Human Rights adopted resolution 1985/33, by which it decided to appoint a special rapporteur to examine questions relevant to torture.

2. On 12 May 1985, the Chairman of the Commission appointed Mr. Peter Kooijmans (Netherlands) Special Rapporteur, who, in pursuance of Commission resolutions 1986/50, 1987/29 and 1988/32, submitted reports (E/CN.4/1986/15, E/CN.4/1987/13 and E/CN.4/1988/17 and Add.1) to the Commission at its forty-second, forty-third and forty-forth sessions respectively.

3. At its forty-forth session, the Commission adopted resolution 1988/32, by which it decided to continue the mandate of the Special Rapporteur for two years, in order to enable him to submit further conclusions and recommendations to the Commission at its forty-fifth and forty-sixth sessions. The Economic and Social Council endorsed that resolution by decision 1988/130.

4. At its forty-fifth session, the Commission had before it the fourth report of the Special Rapporteur (E/CN.4/1989/15) and adopted resolution 1989/33 by which, after recalling its resolution 1988/32 of 8 March 1988, it decided that the Special Rapporteur, in carrying out his mandate, should continue to seek and receive credible and reliable information from Governments, as well as specialized agencies, intergovernmental organizations and non-governmental organizations.

5. In conformity with Commission resolutions 1988/32 and 1989/33 the Special Rapporteur hereby presents his fifth report to the Commission. Chapter II of the report deals with a certain number of aspects pertaining to the Special Rapporteur's mandate and method of work. Chapter III consists of the correspondence between the Special Rapporteur and Governments of States with regard to which detailed information alleging the practice of torture has been received. This chapter describes, in a summarized form, communications from the Special Rapporteur to Governments, including both urgent appeals and letters, and Governments' replies thereto. Chapter IV consists of reports on the visits by the Special Rapporteur to Guatemala and Honduras, as well as the follow-up of his visits in 1988 to Peru, the Republic of Korea and Turkey. Chapter V contains conclusions and recommendations.

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II. MANDATE AND METHODS OF WORK

6. The Special Rapporteur received a great number of communications with information on alleged cases of torture or severe maltreatment. Whenever the information contained in these allegations is sufficiently detailed and is not patently fabricated the Special Rapporteur feels that it is his duty to bring these allegations to the attention of the Government concerned and to ask for its comment. The fact that the number of allegations transmitted to Governments is still increasing does not mean by itself that the occurrence of torture in the world is also increasing. It may be explained by the fact that the Special Rapporteur's mandate is becoming more widely known and that an ever-increasing number of non-governmental organizations have become familiar with it. Another factor of importance is that allegations tend to become more detailed and therefore lend themselves more easily to submission to Governments. In previous years no action could be taken on a considerable number of allegations as they did not contain sufficient information about the identity of the victim, the date on which the victim was arrested or tortured, the place where he was allegedly subjected to torture or the type of torture which was inflicted. The Special Rapporteur has learnt that steps were being taken by Human Rights Information and Documentation Systems, International (HURIDOCS) to bring into use a standardized format for allegations submitted by non-governmental organizations. The Special Rapporteur welcomes this development since it can contribute to a greater effectiveness of his and other mandates.

7. The Special Rapporteur wishes to point out that the number of allegations submitted to certain Governments may not be taken as an indication of the extent of the practice of torture in those particular countries. First of all, previous statements of the Special Rapporteur have to be reiterated, to the effect that in submitting allegations to Governments he does not take a position on the merits thereof, since he is not in a position to do so. The number of allegations received with regard to a particular country, however, is determined not only by the human rights situation in that country, but also by other factors. Some societies have a more open character than others so that it is easier to collect information about the internal situation. The degree of public awareness in a country and the presence there of human rights monitoring organizations are relevant factors, as is also the role played by opposition political groups or religious communities.

8. Neither does the fact that no allegations have been submitted to a particular Government necessarily mean that no torture is practised in that country. Because of the closed character of a society or the prevalent political climate the sparse information received can be so incomplete that it is impossible to transmit it to the Government concerned.

9. When allegations received contain a combination of human rights violations which are covered by a special mandate, the dominant element determines under which mandate action will be taken. The most common of such combinations of serious violations is the allegation that a corpse has been found with gunshot or stab wounds and with marks of torture. Since here the killing is the dominant element the allegation is transmitted by the Special Rapporteur on summary or arbitary executions. If, however, it is alleged that a person had died as a result of torture, torture is the dominant element and the allegation is transmitted by the Special Rapporteur on torture.

10. The Special Rapporteur extends his appreciation to all Governments which have provided him with comments on the allegations transmitted. A number of the replies received contained extensive information; others merely stated that the matter had been investigated and that the allegation was found to be baseless. The Special Rapporteur would appreciate it if he were informed on what basis such a conclusion had been drawn. When, for example, the Special Rapporteur is informed that a person, alleged to have died as a result of torture, died from another cause, without any further particulars, such information in itself cannot be considered as conclusive evidence that torture has not taken place.

11. The Special Rapporteur received invitations from three Governments to visit their country. He welcomes these invitations from the Governments of Guatemala, Honduras and Zaire since consultations with authorities and professional and other non-governmental organizations in the country itself are an excellent means of observing the situation and of making recommendations which are specifically geared to the needs of that particular country. In this context the Special Rapporteur wishes to express his deep appreciation to the Governments of the Republic of Korea and of Turkey for the way they have reacted to his recommendations contained in last year's report. The Special Rapporteur feels that through this form of co-operation with individual Governments the prevention of torture is excellently served.

12. Reports on the visit to Guatemala and Honduras are contained in this report (chapter IV). Since the visit to Zaire is scheduled for the third week of January, the report on that visit will be published in an addendum to this report.

13. The Special Rapporteur again wishes to underline that an invitation extended to him by a Government should not be seen as an admission that torture is practised in the country concerned. Since the main purpose of such a visit is the prevention of torture in the future and since torture can happen in any society, this type of visit, which is of a consultative character, is mainly future-oriented. The Special Rapporteur can also be invited to visit a country to investigate alleged cases of torture, but up to now no invitations for such an investigatory visit have reached him.

14. Sometimes the Special Rapporteur receives information about a certain régime or a certain technique which is practised in a country and which is said to cause effects that are tantamount to the effects of torture. In such cases the Special Rapporteur has found it more appropriate to try to have consultations with the Government concerned, rather than bringing such information to its attention in the usual way. In this context mention may be made of information received by the Special Rapporteur according to which the detention régime in the Federal Republic of Germany for prisoners who are serving sentences for having committed terrorist crimes amounted to torture or inhuman treatment. It was alleged in particular that these detainees were kept in solitary confinement which could result in sensory deprivation. For this reason they had demanded to be detained collectively or in groups, a demand which they had tried to enforce by a hunger-strike.

15. On his request the Special Rapporteur has held consultations in Bonn with representatives of the Ministry of Justice. He was informed that the prisoners concerned (whose number is about 25) still constituted a danger for society and that for that reason special security measures, for example with

regard to their lodging, were necessary. It was denied, however, that they were lodged in soundproof cells; moreover, all of them had radio-sets, record players or tape recorders in their cells. During certain hours of the day they could have contact with other prison inmates, but most of them refused to do so as they did not consider themselves as common criminals; to this extent, therefore, their isolation was self-chosen. They had regular contacts with their lawyers (in private) and with other visitors and could correspond with other detainees belonging to the same group and with the outside world, although such correspondence was subject to censorship. The Special Rapporteur was provided with detailed information about the prison conditions of each of the prisoners concerned. He was assured that the matter had the constant attention of the Government and that measures had been taken and were under consideration to make prison life as humane as possible for this special category of detainees.

16. During the second session of the Committee against Torture, established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Special Rapporteur had an exchange of views with the Committee on 18 April 1989. The content of this exchange of views is reflected in the report of the Committee to the General Assembly (A/44/46, paras. 15-21). The Special Rapporteur also had informal consultations with the Chairman of the Committee. The Special Rapporteur welcomes the opportunity to have periodical consultations with a treaty-based body which, though its functions are of a different - albeit complementary - character, serves the same goal, viz. the eradication of torture.

17. The Committee established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has been appointed and started its work on 13 November 1989. The Special Rapporteur will keep himself informed of the work of the Committee and seek contacts with the Committee whenever he deems it useful for the carrying out of his mandate.

18. Another important event was the adoption by the General Assembly, by its resolution 43/173 of 9 December 1988, of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Since the contents of this document are closely linked with his mandate, the Special Rapporteur will come back to it in chapter V "Conclusions and recommendations".

III. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Urgent action

19. During the period covered by the present report, the Special Rapporteur continued to receive requests for urgent action or information containing elements which, he deemed, justified such urgent action. These requests principally concerned persons who were allegedly being subjected to torture, or regarding whom fears were expressed that they may be subjected to torture, usually while being held incommunicado in police or army custody, or during interrogation. The Special Rapporteur brought 51 of these cases to the immediate attention of the respective Governments and appealed to them, on a purely humanitarian basis, to ensure that the right to physical and mental integrity of those concerned was protected and that the treatment meted out to them while in detention was humane.

20. Appeals were sent to the following Governments: Benin, Brazil, Chile, China, Colombia, Egypt, El Salvador, Ethiopia, Guatemala, Guinea, Haiti, Honduras, Israel, Mauritania, Myanmar, Nicaragua, Panama, Peru, Philippines, Saudi Arabia, Somalia, South Africa, Sudan, Turkey, United Arab Emirates, Zaire.

21. The following Governments replied to the appeals for urgent action addressed to them by the Special Rapporteur: Benin, Chile, Colombia, Ethiopia, Guatemala, Honduras, Myanmar, Panama, Peru, Philippines, South Africa, Sudan, Turkey.

22. Further details on the contents of the appeals and of government replies thereto received by 20 December 1989 are given in section B below, entitled "Correspondence with Governments".

B. Correspondence with Governments

Algeria

23. On 6 April 1989 the Special Rapporteur addressed a letter to the Government of Algeria transmitting information alleging that violations of human rights had occurred in Algeria following the riots in October 1988, mainly in the form of arbitrary arrests and torture.

24. According to the information, various law enforcement agencies, civilian as well as military, practised torture as a matter of routine. In certain places, torture sessions are reported to have taken place in the presence of the civil authorities. Also, in some places doctors and paramedical staff are alleged to have assisted the torturers.

25. The methods of torture alleged to have been used consisted mainly of corporal punishment, sexual violence, electrodes applied to all parts of the body, cigarette burns, the forcible administration of harmful liquids and harmful substances and various humiliations. This torture was practised *inter alia* at the military camp of Sidi-Ferruch and the police station at Boufarik.

26. On 16 October 1989 the Government of Algeria addressed a letter to the Special Rapporteur stating that its position on the question of torture had always been and remained one of firm and unequivocal condemnation of that unacceptable practice. The Government quoted a number of statements made by senior Algerian officials, including the President of the Republic, strongly condemning the practice of torture and giving an assurance that he had taken the requisite measures and that persons guilty of such practices would be punished. As to the events of October 1988, the Government stated that appeals had been filed by the victims of those events and that the cases were pending.

Bahrain

27. On 21 April 1989 the Special Rapporteur addressed a letter to the Government of Bahrain transmitting information concerning the case of Ebrahim Bahman M. A. Dashti, born on 25 January 1959 in Manama, Bahrain. Mr. Dashti was allegedly brutally arrested on 16 March 1985 and questioned about his alleged connections with a banned organization called the Islamic Front for the Liberation of Bahrain, which he denied. Subsequently he was allegedly subjected to various types of torture, including severe beating on all parts of the body; flogging with cables, steel wires and a wood baton; forcing the head in a tank of water almost until suffocation; immersion in two tanks of hot and cold water alternately; hanging upside down from a ceiling fan, while being kicked and punched; electric shocks with electrodes connected to various parts of the body, including ears, nipples and genitals; piercing with needles beneath the finger-nails; being held in a small dark room into which were introduced two big dogs, which bit the victim in all parts of his body; threats against family members and being tortured in front of family members; being hit on the fingers with a hammer while blindfolded, mouthwrapped and with hands and feet tied; being tied to a chair and having burning coals brought with pincers close to the eyes; having the head banged against a wall; lying down on the floor on the back, with hands and feet tied to the ground and being pressed with a boot on the neck until near suffocation; being forced to chew a dead rat; being hung from the ceiling by wrists and feet, facing down to the ground (a method known as "flying spider"); being subjected to a method known as "Barbeque Chicken" or "Farooj"; being exposed to wild dogs for 10 minutes daily, and then having salt and pepper sprinkled on his bleeding body. The names of the officials allegedly responsible for those practices were transmitted to the Government. Following that treatment and further threats of torture with thalium (a chemical poison), Mr. Dashti signed a confession, was taken to court and was sent to Al-Quala prison for further interrogation. He was held there for 14 months during which period he continued to be tortured. He subsequently signed further confessions, was taken to court and was sentenced to three years' imprisonment, which he served in Manama prison. On 21 February 1988 Mr. Dashti was deported to Iran. While serving his sentence Mr. Dashti witnessed several other inmates allegedly being tortured. They included the following: Zuheir Haddad, Nader Al-Nasheet, Muhammad Abdullah Al-Moghabi, Hussain Fordan, Abdul Raouf Al-Shayeb, Ebrahim Hassan Jassim, Muhammad Hassan Mahroom, Said Al-Aradi, Abdul Redha Al-Turaifi, Hassan Jaffer, Abdul Aziz Abdullah Nassir, Towfeeq Al-Mahroos, Jalal Al-Quassab, Abdul Rasool Mubarak, Ebrahim Kadhim Matar, Ahmed Saleh, Faisal Marhoon, Ali Saleh, Jaffar Ghowayed, Hasan Al Khan, Said Al Aradi, Jaffer Sahwan and Muhammad Baquer. The Special Rapporteur also transmitted to the Government the case of Muhammad Mansoor Hassan, aged 32, a Bahraini national who was arrested on 25 January 1989 at Bahrain international airport upon his

return from Syria. Mr. Hassan was reportedly kept in Al-Quala prison in Manama. He was allegedly tortured to death, and his body was found on 8 February 1989 in the village of Sar. His body bore the following marks of torture: holes in the bones of the feet, bone fractures in the left hand and the right thigh; the hair of his head was burnt and his scalp bore several bleeding injuries. The authorities had reportedly admitted his detention, but denied torturing him to death.

28. On 17 August 1989 the Government of Bahrain informed the Special Rapporteur that the allegations concerning the death of Muhammad Mansoor Hassan were completely false. The formal investigation into the cause of death, properly conducted at the time, including an official post-mortem examination of the body, confirmed that there were no suspicious circumstances and that the deceased, a known epileptic, had died of natural causes.

Benin

29. On 28 December 1988 the Special Rapporteur sent an urgent appeal to the Government of Benin stating that Mr. Léon Yelome, aged 30, was alleged to have been arrested by members of the civil guard on 14 October 1988 and detained at Camp Guezo. Further, Mr. Moussa Mama Yari, aged 37, was reportedly arrested on 24 October and held, initially, in the police station and transferred to an unknown place. According to the same information, both persons were subjected to torture.

30. On 12 June 1989 the Government of Benin informed the Special Rapporteur that Léon Yelome and Moussa Mama Yari, both members of different unlawful movements and parties, were at present being held at the Guezo military camp in Cotonou. Immediately after their arrest, the two prisoners were heard by the State Security and Investigation Standing Committee. The file made up on them by the Committee was transmitted in due course to the Public Prosecutor's Department. Moreover, neither Léon Yelome nor Moussa Mama Yari were subjected to torture either during or after their interrogation.

31. On 22 May 1989 the Special Rapporteur sent an urgent appeal to the Government of Benin stating that eight persons were allegedly being kept incommunicado, without charge or trial, in the PLM Aledjo military camp in Cotonou and that several of them had been severely beaten or tortured. The persons in question were: Roger Adote, student, arrested on 15 February 1989; Bruno Pierre Alofa, student, arrested on 9 January 1989; Benjamin Badou, civil servant, arrested on 26 January 1989; Théophile Bessan, teacher, arrested on 3 February 1989; Basile Degnonvi, sociologist, aged 33, arrested on 25 January 1989; Simon Fanou, plumber, arrested on 5 March 1989; Arsène Gbaguidi, teacher, aged 31, arrested on 25 January 1989; Michel Honanvoegbe, teacher, aged 31, arrested on 25 January 1989.

32. On 10 July 1989, the Special Rapporteur sent an urgent appeal to the Government of Benin stating that Mr. Jonas Gninmagnon, aged 32, Chairman of the Committee of the Parents and Spouses of Prisoners of Opinion was allegedly arrested at Cotonou on 15 May 1989 and was still being detained, without charge or trial, in the police station at Abomey-Calavi. Neither Mr. Gninmagnon's family nor his lawyer are entitled to visit him. According to the information received, most of the persons arrested on political grounds were tortured. Some of them had died during the last 18 months after being tortured by persons belonging to the security forces.

Brazil

33. On 17 March 1989 the Special Rapporteur sent an urgent appeal to the Government of Brazil concerning information alleging that 22 persons, including a priest, had been arrested on 11 March 1989, during a state military police operation to expel some 600 peasant families from land they had occupied in Fazenda Emira, Salto de Jacui, State of Rio Grande do Sul. The 22 persons arrested were allegedly beaten after their arrest and tortured by being staked to anthills. They were taken to the local prison in Sobradinho, where they were allegedly still being held incommunicado, by order of a judge. The detained priest was named as Father Paulinho Ciorili (or Cirioli). The other detainees were named as follows:Leonir Marcon, João Tarcisio Schwap, Amarildo Zanovello, Eny Luiz Vinck, Ademir Nunes, Norberto Da Silva, João Carlos Camargo, Jose Da Rosa Silva, Antoninho Martes, Valdir Dias Rodrigues, Nelson Portela, João Batista Serpa, Osmar Pretik, Helmut Hering, Hamilton Soares, Valcir Dallacosta, Gaudencio Da Motta, Ismael Ribeiro, Marilo de Bortolli, João Fernando dos Santos, Antonio Moacir Rocil. It was also reported that 30 people had been seriously injured during the operation, and that two were in critical condition in intensive care, allegedly after being beaten. They were Brother Sergio Gorgen, a member of the Franciscan congregation, and João Maria Menezes, a rural worker.

34. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of Brazil transmitting information concerning the following cases of alleged torture:

(a) José Carlos de Souto Pinheiro, aged 25, and Evaldo Berto da Silva, aged 23, were reportedly arrested on 6 June 1989 by police in Cachoeiras de Macacu, State of Río de Janeiro, and taken to police station No. 126, on suspicion of having stolen a bicycle. They were allegedly beaten and tortured by electrocution and attempts at strangulation;

(b) Fenelon Lins Filho, a trade unionist affiliated with the (Central Unica dos Trabalhadores (CUT) (Brazil) was detained on 14 June 1989 in Lagoa da Prata, State of Minas Gerais, and held for 45 hours, during which he was allegedly severely beaten by 10 policemen.

35. On 16 November 1989 the Special Rapporteur addressed a letter to the Government of Brazil transmitting information alleging that Ivan Brito de Assis, aged 24, a leader of the Movimiento Trabalhadores Rurais Sem Terra (MST) was arrested on 29 August 1989 by two policemen who took him to the police station in Quebrangulo. There he was allegedly stripped and interrogated and at the same time subjected to torture, which included the "parrots perch" (when the victim is suspended upside down from a bar), electric shocks all over his body, suffocation and tying a rope around his testicles. Throughout the period in which he was in police custody he was allegedly intimidated and threatened with death.

Bulgaria

36. On 18 July 1989 the Special Rapporteur addressed a letter to the Government of Bulgaria transmitting information alleging that an unknown number of persons had died, allegedly after being beaten by members of the

security forces, and that others had also been beaten, in the context of demonstrations held by ethnic Turks in late May 1989. The following detailed cases were reported:

(a) Nedzeb Osmanov Nedzebov, aged 47, from Kus, died after being beaten during a demonstration in Kaolinovo; Myumun Feihimov, aged 28, from Momchilgrad, died on 30 May 1989, allegedly from wounds received when he was beaten by members of the security forces on 25 May 1989; a teacher known as Fuat "Ogretman", aged 65, was beaten on 25 or 26 May 1989 in Kardzhali, and died two days later;

(b) The following persons, residents of Dzhebel in the south of the country, were allegedly severely beaten in their houses between 22 and 25 May 1989: Ozdzhan Alimov Aliev, Halil Ibrahimov Rekifov, Fetki Hasanov, Orhan Myuminov, Sabri Osmanov and Sabri Omer Osmanov;

(c) Hyusein Hasanov Mustafov, aged 37, from Sechishe, was reportedly arrested on 2 June 1989 and beaten with truncheons in Yagnilo village police station;

Chile

37. On 5 and 10 January 1989 the Special Rapporteur sent urgent messages to the Government of Chile concerning the detention of Miss Dolores Cautivo, aged 22, and Miss María Fernanda Cautivo, aged 16, and the detention of Odette López, Claudio Toro Herrera, Alexis Cuevas Zambrano, Carolina Videla Osorio, Francisco José Jofre Gallardo, Patricio Jara Arias and Roberto Jiménez on 31 December 1988 by the Arica Corps of Carabineros. On 22 May 1989 the Special Rapporteur sent an urgent message concerning the detention of Miss Dolores and Miss María Fernanda Cautivo, stating that, after their release he had been informed that the two sisters had been beaten and subjected to ill-treatment during their interrogation. He had also been informed that Miss Dolores Cautivo Ahumada had been re-arrested on 20 April 1989, on the instructions of the Military Prosecutor of Arica, under the Anti-Terrorism Act. Miss Cautivo is reported to be confined in the public goal in Arica and concern has been expressed about her physical and mental integrity.

38. On 15 November 1989 the Government of Chile informed the Special Rapporteur that:

"(a) On 1 January 1989, case No. 01/89, was opened, relating to the events that occurred on 31 December 1988, at the Tucapel Circular Flyover in the city of Arica. As a result of this investigation, at present 11 persons are under a committal decision for infringement of Act No. 17,798, on the control of firearms and explosives, as well as in a restrictive and exceptional form, for infringement of Act No. 18,314, which determines terrorist conduct and sets the relevant penalties.

(b) Concerning the gist of the opinion given by the Under-Secretary for the Interior of the Ministry of the Interior and pursuant to the information provided by the Military Prosecutor of Arica to the assessor of the Division, it can be stated that case No. 01/89, concerning the aforementioned accused persons and the events that form the subject of the review by the Under-Secretary for the Interior, is under investigation in the Prosecutor's

Department for the Army and Carabineros of Arica, since there is no formal background information in the form of a legal complaint to this military court or any other ordinary court of justice concerning the alleged torture and ill-treatment inflicted on Dolores Paz and María Fernanda Cautivo Ahumada.

(c) In this connection, it should be pointed out that María Fernanda Cautivo Ahumada was detained only for five days on the order of the Military Court, since she was subsequently referred to the Children's Court of Arica for her mental capacity to be assessed; she is currently at liberty by order of that court on the ground of lack of mental capacity.

(d) Finally it should be pointed out that Dolores Paz Cautivo Ahumada is currently being detained under a committal order pursuant to Act No. 18,314 which determines terrorist conduct and sets the relevant penalties."

39. On 17 April 1989, the Special Rapporteur sent a letter to the Government of Chile transmitting information to the effect that further cases of torture had been reported since June 1988. Most of the persons detained were allegedly subjected to torture or ill-treatment by members of "Investigaciones", "Carabineros" or agents of the National Information Agency (CNI). The following cases were communicated to the Special Rapporteur:

(a) José Luis Donoso Cáceres, arrested on 26 October 1988 in Las Peñas by members of the Special Operations Group (GOPE) together with Miguel Angel Colina Valdivia, aged 22; Manuel Antonio Araneda González, aged 22; Richard Adrián Ledesma Plaza, aged 23; José Antonio Ugarte González, aged 19. A sixth man, Claudio Danilo Araya Fuentes, aged 31, was arrested on 27 October 1988. The six men were charged with carrying out a raid against a police station in the village of Los Queños. All were allegedly tortured and kept in isolation for 35 days;

(b) The other alleged cases of torture involved the frequent practice of electric shocks to the most sensitive parts of the body (genitals and head). In addition to other forms of ill-treatment, the following persons were allegedly subjected to electric shocks: Cristóbal Carrasco Oñate, arrested on 5 October 1988; Mirko Zarkovic Obrego and Víctor Pávez Ramírez, arrested on 24 October 1988; Luis Carlos Godoy Cortés, arrested on 3 October 1988; Oscar Patricio Molina Ossandon, arrested on 4 October 1988; Héctor Zuñiga, Juan Abar and Miguel Angel Marciel Amor, arrested on 4 October 1988; Luis Hernán Bravo Ordóñez, arrested on 23 June 1988; Marco Antonio Sepúlveda Senoceain, arrested on 25 July 1988 and Sandra Ranz Velásquez, arrested on 9 October 1988.

40. On 2 October 1989 the Special Rapporteur sent a letter to the Government of Chile transmitting information to the effect that Mr. Iván Escurra Campos and Miss Sissi Guzmán Vargas had allegedly been arrested on 19 May 1989 by five members of the Carabineros Special Activities Patrol in the fifth district of Achupalas, Viña del Mar. After their arrest, they were reportedly beaten and terrorized by a dog, after being tied up and stripped. Later, both were alleged to have been taken to the fourth Carbineros station in Viña del Mar, where Mr. Escurra Campos was subjected to a lengthy interrogation during which he was tortured physically and psychologically. The police are said to have threatened to kill his relatives and to have deprived him of food and rest.

China

41. On 21 April 1989 the Special Rapporteur addressed a letter to the Government of China transmitting information alleging that 27 Tibetans had been convicted on 19 January 1989 by the Lhasa City Intermediate People's Court and the Lhasa Downtown Area People's Court for involvement in demonstrations and given prison sentences of various durations. The following detailed cases were reported:

(a) Several defendants reportedly alleged during their trial that they had had to confess to the charges brought against them due to the severe torture to which they had been subjected while in detention. Among them were Lobsan Tenzin, sentenced to death, who was allegedly beaten with wooden sticks and iron rods; Tsering Dhondup, sentenced to 18 years' imprisonment, who was allegedly hung upside down from the ceiling and beaten with electric batons during the interrogation; and Gyaltsen Choephel, sentenced to 15 years' imprisonment, who allegedly had his hands and feet shackled, was beaten with electric batons and ropes, was hung from the ceiling for five consecutive days, was taken outside in the middle of the night, was stripped naked and had the lower part of his body smeared with excrement;

(b) In addition, Ngawang Dopchen, a monk from the Drepung monastery, who was released on 2 February 1989, had allegedly been tortured while in detention. It was alleged that he had his hands twisted and tied behind his back and was beaten on the chest, as a result of which he suffered broken ribs;

(c) It was further reported that five Catholic seminarians, whose names were not given, from Nanmangong village in Hebei Province had been arrested on 2 December 1988 by officers of the Qingyuan County Public Security office, and then released after questioning. Three of them were reportedly arrested again in early January 1989 and detained for three days. While in detention, they were allegedly stripped naked, beaten, forced to lie on a cold cement floor, and burned with lighted cigarettes. That torture was allegedly ordered by two police officers, whose names were transmitted to the Government, who had allegedly, on various occasions over the past two years, abused their power and persecuted Catholics in that region;

(d) Further to the urgent appeal sent to the Chinese Government on 2 December 1988 concerning four Tibetan nuns who had allegedly been subjected to torture, the Special Rapporteur received information that their date of arrest was 24 April 1988. The correct names of the four nuns were reported to be as follows (the civil names are given in parenthesis): Gyaltsen Lochö (Zomkyi); Gyaltsen Tenzin (Tsering Dolma); Gyantsen Karzom (Tashi Yangzom) and Ngawang Dolma (Padro). It was further alleged that the four nuns had later been rearrested.

42. On 21 July 1989 the Government of China addressed a letter to the Special Rapporteur, giving more details about the arrest and alleged torture of five Catholic seminarians in Hebei Province (para. 41 (c), above). On 2 December 1989 the Public Security Bureau of the Qingyuan County, Hebei Province, took into custody Chen Hekun, Ji Fuhou and three others for investigation of their suspicious activities in the Nanmanying village. It turned out that they had come to the village to attend a preaching seminar organized by the underground Catholic forces. Once their origins were

identified they were released after education and returned to their home towns. On 4 January 1989 Chen and two others went to the Public Security Bureau of the Qingyuan County and "kicked up a big row, seriously disrupting the normal work there. When efforts of persuasion failed, the public security department gave them a three-day detention as a punishment in accordance with the Regulations on Administrative Penalties for Public Security. The allegation that they were 'tortured', 'stripped naked', 'forced to lie on a cement floor' and 'burned with lighted cigarettes' were sheer fabrications".

43. On 13 June 1989 the Special Rapporteur sent an urgent appeal to the Government of China concerning information alleging that a large number of persons who had been arrested during the first week of June 1989, at Beijing University campuses and in other areas of the city, on suspicion of active participation in demonstrations, had been severely beaten upon arrest. The following were among those arrested: Lin Xiaobo, a lecturer in the Chinese Department of Beijing Normal University; arrested on 6 June in Beijing; Cao Siyuan, a senior advisor to Secretary General Zhao Ziyang, arrested on 3 June in Beijing; Cheng Yu, a PhD candidate at the University of Chicago (United States of America), her one-year-old son, Lee Payton, and Tong Boning, a student at the University of California, Los Angeles; all three were reportedly arrested by plain clothes policemen at Beijing airport on 5 June. Reportedly, both Chen Yu and Tong Boning had participated in demonstrations in Tienanmen Square, Beijing. Fears were expressed that these and the other persons recently arrested might be subjected to further ill-treatment or torture while in detention.

44. On 29 November 1989 the Special Rapporteur sent an urgent appeal to the Government of China concerning Tseten Norgye, aged 45, from Lhasa, who had been arrested in April or May 1989, allegedly for having distributed Tibetan propaganda. Tseten Norgye was reportedly being held, without charge, in Chakpori detention centre in Lhasa. It was alleged that Tseten Norgye had lost one eye and was seriously injured as a result of torture during interrogations. It was further alleged that prisoners held in Chakpori detention centre were systematically and severely tortured. In particular, it was alleged that nuns held in Chakpori in July had had their breasts amputated.

Colombia

45. On 7 March 1989 the Special Rapporteur sent an urgent message to the Government of Colombia concerning Orlando Agredo Jiménez, aged 29, a farmer. The information received indicates that he was arrested by army personnel on 24 November 1988. According to the information, he was taken to Santiago Military Base where, in the course of the interrogation, he was subjected to ill-treatment. It is also stated that the fingers of Mr. Agredo's right hand were cut off.

46. On 19 April 1989 the Special Rapporteur sent a letter to the Government of Colombia transmitting information concerning allegations of cases of torture and ill-treatment in Colombia. The complainants alleged the following:

(a) In December 1988 Elvia Regina Cuello Hernández, Chairwoman of the Community Action Board, her daughter Deyanira and her niece Marisela Margarita Cuello Hernández were allegedly forced by the army to leave the town of El Pato, Antioquia. Subsequently, on 23 January Marisela M. Cuello and

Argiro Alonso Avendaño Palacio were arrested by army personnel in Cáceri and brought before the Seventh Court of Public Order in Medellín. It would seem during the time when they were under arrest they were tortured to force them to admit to the charges against them;

(b) Jesús María Avendaño Villegas and Carlos Mario Avendaño Palacio, respectively the father and brother of Argiro Alonso Avendaño Palacio, were allegedly detained on 27 January by soldiers in Bello and subjected to torture. Subsequently brought before the Second Court of Public Order, they were released due to lack of evidence;

(c) Samuel Enrique de la Ossa, Manuel Echeverry Guerra, Giraldo Zapata and three other unidentified persons are alleged to have been arrested by the army on 5 March 1989 in El Pato and brought before the Sixth Court of Public Order. During their detention they were allegedly subjected to threats and ill-treatment.

47. On 8 June 1989 the Special Rapporteur sent an urgent message to the Government of Colombia concerning Mr. Rodolfo Hernández, an employee of Ecopetrol and a member of the Executive Committee of the Sole Confederation of Workers (CUT), and Mr. Efraín Gómez, a member of the Tribunal of Social and Constitutional Guarantees of CUT, alleged to have been arrested on 2 May 1989 in the town of Bucaramanga, and held at the premises of the Fifth Brigade in that town. The two trade-unionists are reported to have been beaten and subjected to ill-treatment and concern has been expressed about their physical and mental integrity.

48. On 18 July 1989 the Government of Colombia informed the Special Rapporteur that Mr. Efraín Antonio Gómez Moncada and Mr. Rodolfo Carlos Hernández Pulgarin belonged to the National Liberation Army (ELN) guerilla group. They were arrested on 1 June 1989. They were interviewed by the Regional Attorney in the Model Prison at Bucaramanga and told him that they had not been tortured and they had not lodged a complaint with any authority.

49. On 14 September 1989 the Government of Colombia sent a letter to the Special Rapporteur in answer to an urgent message of 2 December 1988 (E/CN.4/1989/15, para. 113) transmitting the cases of eight trade-union leaders alleged to have been subjected to torture. According to the information received from the Government, the trade union leaders arrested on the occasion of the civil strike held on 27 October 1988 and subsequently released received proper treatment and their physical and mental integrity was respected at all times.

Ecuador

50. On 5 February 1989 the Government of Ecuador sent a letter to the Special Rapporteur in answer to a communication of 29 June 1987 transmitting information on four cases of reported torture. According to the information received from the Government, investigations revealed that the Ecuadorian citizens Betty Basantes Borja, María Rosa Cajas Lara, Cecilia del Carmen Méndez Mora and Lidia Adriana Caicedo Bravo belong to the "Alfaro Vive Carajo" subversive group. The present Government, which took office on 10 August 1988, reached an agreement at the end of January 1989 with the above-mentioned Group to put an end to armed activities.

51. According to the information received from the Government, the statements by the aforementioned persons were made "freely and voluntarily, without moral or physical pressure of any kind or any type of bribe, the accused being in full possession of their faculties and aware of the guarantees provided by the Constitution ..." according to the relevant documents. Furthermore, a Government Prosecutor was always present when the statements were made in order to supervise that the proper constitutional procedure was followed.

52. The Government stated that in the specific cases to which the Special Rapporteur's communication refers, it has been established that, as a result of the medical examination of Miss Cecilia del Carmen Méndez by the Forensic Medicine Department of the Office of the Attorney-General, the conclusion was reached that this person showed no signs of injuries of any kind that could be attributed to acts of torture.

53. On 17 November 1989 the Special Rapporteur sent a letter to the Government of Ecuador transmitting information on alleged cases of torture. It gave the following details:

(a) Sélfrido Ilves Camacho, arrested in Caluma, Bolivar, on 7 May 1989 by order of the political officer. A policeman and group of civilians allegedly interrogated Mr. Ilves under torture in the Caluma Rural Police Detachment premises. According to an electrician, who is a member of an association to combat cattle theft, a bare cable was placed round his neck and the current was switched on, causing his death;

(b) Luis Sánchez Vega, arrested at Tabiazo on 19 April 1989 by armed civilians who took him to the SIC-Esmeraldas premises. During the interrogations, an agent allegedly struck him on the body and caused suffocation by placing gas-filled containers on his head until he collapsed. Following that he needed rest and medical treatment for a week;

(c) Andrés Camacho, arrested in Sucumbios on 1 May 1989 by soldiers, presumably from the Batalón de Selva 54-Aquarico. He was taken in a military lorry to La Punta to the Batallón de Selva 56-Tungurahua. There he was allegedly questioned under torture until he lost consciousness; he was left in front of his house in that state. A medical examination showed problems of balance attributable to a disorder of the cerebellum. He needed complete rest for three weeks, with continuous supervision;

(d) Segundo Santacruz Oñate, arrested on 1 May 1989 in Quito and taken to the SIC-Pichincha where he was interrogated by an agent. During interrogation he allegedly was beaten on the back with a stick, was hung up by his thumbs and was asphyxiated. The medical examination carried out on 9 May showed an injury to the left eyebrow, lacerated and injured shoulders and lacerated and injured thumbs;

(e) Héctor Tapia, driver of a garbage truck and four workers from the sanitation department, arrested in Quito on 19 June 1989 following a complaint by a citizen who inadvertently threw a large sum of money in a garbage container. In addition to this detention, in the SIC-Pichincha, an agent is alleged to have subjected the workers to ill-treatment, namely blows administered on the thighs and legs with a stick, in tripod position, blows with both fists and kicks when they fell to the ground; they were left hanging in the air by their thumbs when a table on which they were standing was taken away; containers of gas were placed on their head.

Egypt

54. On 22 September 1989 the Special Rapporteur sent an urgent appeal to the Government of Egypt concerning information alleging that approximately 60 persons (journalists, lawyers, trade unionists and members of the legal political opposition) were arrested during the night of 23/24 August 1989, held in Al Salam police station until 27 August, and then transferred to Abu Za'Abel prison. According to a number of prisoners later released, all reportedly suffered indiscriminate beating following a hunger strike on 28 August by 10 detainees protesting about prison conditions. The 10 protesters themselves were reportedly beaten individually and placed in solitary confinement. The following 23 persons were reportedly still being held by the police and fears have been expressed that they might be subjected to torture and ill-treatment while in detention: Riyad Rifat, Muhammad Riyad, Hamid Khalifa, Fikri Labib, Ibrahim Fathi, Ahmad Sadiq, Muhammad Abdel Salam Al Barbari, Muhammad Zaki Al Hifnawi, Mahrous Mahmoud Surour, Muhammad Abdel Fattah Abdel Hay, Abdel Khaliq Farouq, Gihad Taman, 'Imad 'Atiya, Abdel Aziz Ash-Shinawi, Ahmed Abdel Raziq, Sa'id Abdel Min'Im Natour, Fatahallah Mahrous, Shafiq Sa'Id Allam, Ad-Dassouqi Sulaiman Ad-Dassouqi, Abdel Min'Imm Al Maghrabi, 'Adil Idris, Jamal Abdel Hamid Jamal Idris, Hamdi Sabir As-Siba'I, Ad-Dassouqi Sulaiman Al Gharib, Muhammad Ahmed Al-Lithi, Mus'Ad Taha Sulaiman, Nabil Nour Ad-Din.

55. On 2 October 1989 the Special Rapporteur addressed a letter to the Government of Egypt transmitting information alleging that despite legislation which prohibited torture, invalidated confessions obtained under duress and made the infliction of torture for such a purpose a punishable offence, torture and ill-treatment of political detainees were widespread in recent years. It reportedly emerged from testimony given by former detainees held between 1986 and 1988 that a pattern of torture existed in the country and that safeguards to protect detainees from being tortured were insufficient. The methods of physical and psychological torture alleged to be resorted to in Egyptian prisons in recent years were the following: suspension by the wrists, ankles or knees; beating with cable, whips and thick sticks, principally on the soles of the feet or on the top of the head; extinguishing cigarettes on the body; electric shocks administered with wires or batons to sensitive parts of the body such as the mouth, nipples or genitals; sexual abuse and threats of being killed or imprisoned indefinitely, or of rape or sexual abuse, directed either at the detainee or at the detainee's relatives. It was reported that numerous torture complaints had been filed in recent years with the office of the Prosecutor General, but that no investigation into such complaints was known to have taken place. The following cases of alleged torture were reported:

(a) Hafez Al Sayyid Sa'ada, was arrested in early 1988 and held by the State Security Intelligence police at Gaber Bin Hayyan Street in Doqqi for more than two weeks, during which time he was allegedly severely tortured, to the point that he had to be treated in hospital before being sent to Tora Reception Prison;

(b) Magdi Gharib Fayed, Muhammad Taha Abdul Azim Al Beheiri, and Farouq Al Sayyid Ashour, were arrested and charged with the attempted assassination of former Interior Minister Major General Hassan Abu Basha in May 1987. The three men were initially taken to the State Security

Intelligence police building in Doqqi and later to Tora Reception Prison and the Institute for Training Police Officers. During their interrogation they were allegedly stripped, blindfolded and tortured in various ways, including being beaten, suspended, and burned with electricity and cigarettes and having hair plucked out of their beards;

(c) Nazih Nashi Rashid, a student aged 29, alleged that when he was detained in Tora Reception Prison electric shocks were applied to his chest and genitals and he was suspended by his bound feet. He also alleged that he was again tortured after being examined by a forensic doctor in July 1987;

(d) Nasr Sayyid Mahmoud Ali Kroum was allegedly tortured while in Tora prison, by receiving electric shocks, having cigarettes extinguished on his body, having objects forced into his anus, having the hair of his beard plucked out and being repeatedly whipped and beaten with a stick. He alleged that he was again tortured and intimidated after being examined by a forensic doctor in July 1986.

It was further reported that the State Security Prosecution Department had, on 29 and 30 August 1989, conducted an investigation into alleged cases of torture of a number of prisoners at Abu Za'bal, who were being held for membership of the illegal Egyptian Workers' Communist Party. Official complaints had been filed on behalf of Dr. Mohamed al-Sayyid Sa'id, Mr. Amir Salim, Mr. Kamal Khalil, Mr. Maged Al-Sauri and Mr. Hisham Mubarak. All had allegedly been beaten several times on 29 August 1989, and some had been threatened with sexual assaults. The beating allegedly took place inside prison wards and cells as well as outside, and was carried out by a contingent of the Central Security forces and prison officers under the supervision of officers from the State Security Office of Investigations. Officials in plain clothes also allegedly took part in the beatings. The State Security Prosecution Department reportedly recorded evidence of severe injuries resulting from the beating. The final conclusions of the investigation, including information on the penalties imposed on officials found to be responsible for these cases, have so far not been made available.

El Salvador

56. On 6 April 1989 the Special Rapporteur sent a letter to the Government of El Salvador transmitting information on alleged cases of torture and ill-treatment in El Salvador from 30 September 1988 to 15 February 1989. The details of the cases as given by the complainants, are as follows:

(a) Edwin Jamir Andrade, arrested by members of the Fourth Infantry Brigade on 30 October 1988, accused of being a guerrilla, was held for 24 days, during which time he was constantly interrogated and tortured;

(b) Rosabel Sibrián, a returnee from Honduras, was arrested on 2 December 1988 by the Fourth Infantry Brigade. Taken to the Fourth Infantry Brigade's prison, he was interrogated about his alleged guerrilla activities and was tortured and ill-treated;

(c) José Gilberto Garcia was arrested on 16 January 1989 by the National Guard in Ciudad Delgado (Department of San Salvador) and taken to the central gaol. While he was being interrogated on his alleged guerrilla activities he was also subjected to torture and ill-treatment;

(d) Mario Giobanny Iraheta Cortez was arrested on 22 January 1989 by uniformed members of the Navy Infantry Battalion who interrogated him, while subjecting him to ill-treatment;

(e) Margarita Eugenia Navarro Argeñal was arrested on 26 January 1989 by armed men in plain clothes. Taken to an unidentified place, Mrs. Navarro was beaten, covered with wet rags, stripped and injected. The victim stated that during her detention she was given neither food nor water. She was accused of belonging to the Urban Commandos and when she denied the charges, her face was covered by a white hood. When she was taken to court, she received death threats for herself and her family if she did not confess to the charges before the judge;

(f) David Aguilar Maldonado was arrested on 30 September 1988 by members of military detachment No. 1 of Chalatenango, Department of Chalatenango. He was taken to the prison where he was forced to strip and a hood was placed on his head. While he was interrogated he was subjected to various forms of torture and ill-treatment;

(g) Oscar Armando Alas was arrested on 10 October 1988 by members of the National Guard in the Colonia San Francisco, Department of La Libertad. After his arrest he was tied up and severely beaten;

(h) Pablo Martínez, a member of the Human Rights Commission of El Salvador (non-governmental) was arrested on 14 January 1989 by members of the security forces and held, for an unspecified period, in the prison of the First Infantry Brigade. During his detention he was subjected to torture;

(i) Alfredo Palacios was arrested on 26 January 1989 in Soyapango, San Salvador, by members of the Salvadorian Air Force, the National Guard and the Rural Police. He was taken to the Rural Police prison and subjected to torture which made it necessary for him to be admitted to the Rosales Hospital in San Salvador and subsequently transferred to the Social Security hospital "1 May" where he underwent surgery;

(j) Mario Antonio Flores Cubas was taken from his home on 2 February 1989 by armed men in uniform. The following day his body was found in the Cantón El Suncita de Acajutla, showing signs of torture and with a bullet in the head.

(k) The following persons are alleged to have been subjected to other kinds of torture:

(i) Vilma Vásquez de Ardón, attempted execution and rape in the Central Prison of the National Guard of San Salvador (24 December 1988);

(ii) José Mauricio Pérez Rodríguez, suspended horizontally by his feet and hands and various parts of his body pierced with needles in the National Guard Prison in the city of Cojotepeque (10 January 1989);

(iii) Jackeline Astrid Peñate Hernández, attempted suffocation in the Central Police Prison in Hacienda (15 January 1989);

(iv) René Benítez Medraño, suspended horizontally by his feet and hands in the Prison of the No. 4 Military Detachment (30 February 1988);

(v) Dora Alicia Villaneuva Moreno, pressure applied to her breasts and her genital organ despite being three months' pregnant, ribs and stomach pricked with pins. This torture was carried out by armed men in plain clothes belonging to the Rural Police (16 January 1989);

(1) The following persons are alleged to have been subjected to torture and ill-treatment and are still in prison (date given 15 February 1989): Daniel Huezo Huezo, in the Central Gaol of Santa Ana; Edwin Jamir Andrade, in the Central Prison of San Vicente; María Elena Ríos Flores, in the Women's Rehabilitation Centre in Ilopango, Department of San Salvador; René Orlando Sagastume Guerrero, in the Central Prison of Santa Ana; Margarita Eugenia Navarro Argeñal in the Rehabilitation Centre at Ilopango, Department of San Salvador.

57. On 5 October 1989 the Government of El Salvador reported to the Special Rapporteur on the following persons: Edwin Jamir Andrade, Rosabel Sibrián Núñez, José Gilberto Garccia, Mario Geovanny Iraheta Cortez, Margarita Augenia Navarro Argeñal, David Aguilar Maldonado, Pablo Martínez o Pablo Antonio Martínez Flores, Jackeline Astrid Peñate Hernández, René Benítez Medrano, Dora Alicia Villaneuva Moreno, Daniel Huezo Huezo, Maria Elena Ríos Flores, and René Orlando Segastume Guerrero. The Government stated that the Human Rights Commission of El Salvador (governmental) had no record of these persons in the arrests made by the various security bodies and in other military garrisons.

58. On 18 April 1989 the Special Rapporteur sent an urgent message to the Government of El Salvador concering the detention of Dr. Leonardo Antonio González Galdámez who, according to information received, had been arrested on 15 January 1989, by the Rural Police in the city of Santa Ana. Dr. González Galdámez has been sentenced by the First Criminal Judge of Santa Ana to imprisonment for "terrorist activities" and was allegedly beaten and tortured by the Rural Police.

59. On 27 April 1989 the Special Rapporteur sent an urgent message to the Government of El Salvador about the following persons, belonging to the organizations listed below: Blanca Margarita Alemán (ADEMUSA), Gloria Alicia Galán García (FECMAFAM), Marta Ofelia Galán García (CRIPDES), Reina Isabel Hernández (Executive Committee of CRIPDES), María Mirtala López Mejía (CRIPDES), Miguel Antonio Jemía Cruz (CRIPDES), María Trinidad Olmedo (CRIPDES), Jorge Alberto Ovedo Hernández (CRIPDES), Inocente Orellana (CRIPDES), and Mairía Judis Peña Flores (AMEDUSA). These persons are alleged to have been brought before the judge of the Second Criminal Court of San Salvador, Centro Judicial Isidro Menéndez, and transferred to the Mariona and Ilopango prisons on 21 April 1989. According to information received, all had been subjected to torture or ill-treatment consisting of lack of food and water, lack of sleep, beatings, faces covered by a hood, rape and hanging from a rope tied around the chest. It has also been reported that Gloria Daysi Alonso is in the Ilopango prison and has been severely tortured.

60. On 5 July 1989 the Special Rapporteur sent an urgent message to the Government of El Salvador about Mr. Pedro Andrade Martinez, known as Commander Mario González, a member of the FMLN Front, alleged to have been arrested by members of the National Police dressed in plain clothes and armed on 28 May 1989 in the Colony of Guadalupe de Soyapango, and brought before the judge of the Military Court of First Instance on 6 June 1989. Mr. Andrade, who is alleged to be held in the general barracks of the National Police is reported to have been subjected to physical and psychological torture, including the repeated use of drugs and to have received threats against his relatives during his interrogation on 7 and 11 June 1989.

61. On 19 July 1989 the Special Rapporteur sent a letter to the Government of El Salvador transmitting information on cases of torture and ill-treatment alleged to have occurred in El Salvador in 1988 and 1989. Most of the acts allegedly occurred in rural areas in clashes between the forces of order and guerrilla movements. The following persons are said to have been subjected to torture or ill-treatment during their detention: Juan Antonio Morales Lucero, arrested on 13 July 1988; José Mauricio Menjivar Belloso, arrested on 16 July 1988; Jorge Humberto Alas Marroquín, arrested on 27 July 1988; Antonio Castro Mejía, arrested on 28 July 1988; José Santos Gabino Martínez, arrested on 8 August 1988; Manuel Antonio Colindres Panameño, arrested on two occasions on 24 March 1988 and 12 February 1989; Alfredo Palacios Lemus, Social Welfare Secretary of the Union of Building Workers and Margarita Navarro, Public Relations Secretary of the Izalco Textile Trade Union, arrested on 26 January 1989. According to the information, as a result of his ill-treatment during detention, Mr. Palacios Lemus had to be transferred to a hospital where he was treated for fractures of the leg and had an abdominal operation. Further, according to information received, the following persons were arrested on 19 April 1989 by members of the Rural Police and taken to the central barracks in San Salvador where they were allegedly subjected to ill-treatment: Natividad de Jesús Acosta; Blanca Margarita Alemán; Rufino de Jesús Ardón; Isabel de la Paz Hernández de Flores; Ana Lilian González Vega; Juliana Hernández; Reina Isabel Hernández; Leticia Méndez Cruz; María Mirtala López; Cruz Moreno Aguilar; María Trinidad Olmedo; Evelyn Mary Scarfe; Rosa Ana Ventura Pérez de Aguillón; Marina Yudis Peña; and Hector Manuel Zapata Alvarez.

Equatorial Guinea

62. On 2 October 1989 the Special Rapporteur sent a letter to the Government of Equatorial Guinea transmitting information concerning some 40 persons allegedly held in Malabo, Bata and the town of Ebebyin, and accused of taking part in a plot against the Government of Equatorial Guinea. All are reported to have been beaten and many subjected to severe torture, such as being forced to drink water containing detergent, having their heads immersed in buckets of dirty water and having electric current applied to the sensitive parts of their bodies. Some are reported to have suffered serious physical injury as a result of that treatment. The names of José Primo Esono Mica, Francisco Bonifacio Mba Nguema and Metodo Esono Andong Mba have been mentioned as having been brutually and severely tortured. Moroccan soldiers are said to have supervised some of the torture sessions which took place outside the public prison in Bata. During their trial, two prisoners, Gaspar Mañana and Jesús Ntutuma, are said to have denounced the torture to the court and to have

declared that their statements had been extracted from them under torture. However, the court does not appear to have investigated the allegations of torture and it sentenced the accused persons to long terms of imprisonment, on the basis of the statements obtained by torture.

Ethiopia

63. On 26 June 1989 the Special Rapporteur sent an urgent appeal to the Government of Ethiopia concerning information alleging that 176 people, mostly members of the armed forces serving in Eritrea, had been arrested in Addis Ababa for suspected involvement in a coup attempt on 16 May 1989. Those arrested reportedly included Major General Fanta Belay, Minister of Industry and former Air Force Commander, General Tesfaye Berhanu, Commander of the Navy, as well as Mrs. Genet Mebratu, employee of the World Health Organization, who was arrested on 8 June 1989. Mrs. Genet Mebratu was the widow of Major General Merid Negussie, chief of staff of the armed forces, described as one of the leaders of the attempted coup, who was killed in the course of the fighting. It was alleged that all the detainees were being held incommunicado by the military or security authorities in Asmara and Addis Ababa, and that none had been brought to court or charged with any offence. Fears have been expressed that these and the other persons arrested following the coup attempt could be subjected to torture while in detention.

64. On 18 July 1989 the Government of Ethiopia informed the Special Rapporteur that the cases of the detainees involved in the coup attempt would be brought before a court of law and they would be tried in accordance with the law of the land and in conformity with the Constitution of the People's Democratic Republic of Ethiopia. In the meantime, and in the course of preliminary investigation, the detainees were being, and would be, treated in strict compliance with the provisions of the Constitution and with the pertinent laws governing the treatment of those under detention.

65. On 2 October 1989 the Special Rapporteur addressed a letter to the Government of Ethiopia transmitting information concerning conditions in Central Investigation Centres and in other special security detention centres which were not officially listed as prisons. It was reported that many prisoners who were at present held in official prisons had been held in such centres at an earlier stage of their imprisonment for interrogation. Cells in the Central Investigation Centre in Addis Ababa, which can vary in size between 4 x 6 metres and 4 x 4 metres, were reportedly overcrowded, with up to 30 or more prisoners sharing a cell. Sanitary conditions were reported to be very poor, and access to a qualified medical doctor or hospital forbidden. It was alleged that torture was extensively inflicted in these centres, especially immediately following the arrest of the prisoner. Torture methods allegedly included beating on the soles of the feet, suspension of the body in a contorted position, application of electric shocks and submersion in water. It was alleged that no investigations into torture allegations had been held and that the Government had not taken any steps to safeguard prisoners from torture and ill-treatment.

Greece

66. On 15 February 1989 the Government of Greece addressed a letter to the Special Rapporteur regarding a case transmitted to it on 28 July 1988 (see E/CN.4/1989/15, para. 38). The Government affirmed that the person concerned had been arrested in connection with drug dealing. On 9 October 1987 he alleged to the magistrate in charge of the investigation that he had been maltreated, and on 10 October 1987 he brought a lawsuit against the police charging that he had been tortured while in custody. Based on that lawsuit, the public prosecutor of Herakleion pressed criminal charges against an unknown party. Thereafter the police initiated an official administrative investigation, which had not yet been concluded.

67. On 14 November 1989 the Special Rapporteur addressed a letter to the Government of Greece transmitting information concerning the case of Yannis Bouranis, a 24-year-old car mechanic, who was allegedly punched, beaten with a truncheon and given electric shocks to the genitals during the course of a five-hour interrogation at Thessaloniki central police station on 14 August 1988. The information further indicated that a medical examination which took place on 16 August 1988 and the subsequent report certified that Bouranis had wounds all over his body, particularly bruises on his legs and scratches on his back. It was also reported that on 24 August 1988, Public Prosecutor Athanassios Smirlis had ordered an inquiry into these allegations. No reports have been received regarding the results of any such inquiry.

68. On 8 December 1989 the Permanent Mission of Greece to the United Nations Office at Geneva informed the Special Rapporteur that Mr. Bouranis had been arrested by the Thessaloniki police on 14 August 1988 *in flagrante delicto* and condemned to five months' imprisonment for burglary. After receiving the allegations sent by the Special Rapporteur, the police had initiated an official inquiry, which included, among other things, a medical examination of Mr. Bouranis, but no clear evidence of maltreatment was established. As a result the court had decided not to press charges against the policemen in question.

Guatemala

69. On 26 April 1989 the Special Rapporteur sent an urgent message to the Government of Guatemala about the case of Juan Carlos Tejeda Tórtola, aged 32, a former member of the Association of University Students, sentenced in 1983 to 35 years' imprisonment. According to the information received, Mr. Tejeda Tórtola who is in the Granja Penal in Pavón is reportedly being tortured, not given sufficient food and only allowed to see his family for 10 minutes once a week. Approximately 100 other prisoners in the same gaol where, apparently, there is neither light nor water, are in the same situation.

70. On 9 June 1989 the Government of Guatemala informed the Special Rapporteur that the investigations conducted by the appropriate authorities (the Deputy-Minister of the Interior, the Directorate-General of the Prison System and the Administration of the Granja Penal in Pavón) established that after the events of Sunday 26 March, the prison in Pavón was occupied by forces of the National Police for security reasons and that the Deputy Director subsequently assumed control. He confirmed that Mr. Juan Carlos Tejeda Tórtola has not been subjected to any ill-treatment, and still less to harassment which might undermine his physical integrity.

71. On 16 November 1989 the Special Rapporteur sent a letter to the Government of Guatemala transmitting information to the effect that Diana Mark Ortíz, aged 31, a United States nun of the Ursuline Congregation, who was working in the primary school at San Miguel Acatán, Department of Huehuetenango, was allegedly arrested on 2 November 1989 by uniformed police when she was attending a pastoral meeting in the house of retreat of Belén, Antigua Guatemala, Department of Sacatepéquez. She was transferred to an unknown place, (according to her, it was a secret jail manned by members of the police) where she was interrogated, beaten and tortured by burns from cigarettes and also subjected to harassment. The victim managed to escape while she was being retransferred. After the events described she is reported to have been threatened with death.

72. On 12 December 1989 the Permanent Mission of Guatemala to the United Nations Office in Geneva transmitted to the Special Rapporteur a letter from the Ministry of Foreign Affairs stating that the nun, Diana Mark Ortíz, according to the complaint submitted by Darleen Chmilewsky, was abducted by persons unknown on 2 November 1989, while she was at the house of retreat "La Posada de Belén", located in the town of Antigua Guatemala. She was released on 3 November and subsequently left for the United States of America. The case concerning her abduction is reportedly being heard by the Court of Criminal Investigation located in the city of Antigua Guatemala, where the legal proceedings prescribed in Guatemalan legislation are taking place. In conformity with internal and international legislation, the appropriate proceedings are currently under way to have the nun Diana Mark Ortíz, by means of letters rogatory through the diplomatic channel, make a statement before a judge in the State of Kentucky, where she currently resides, in order to obtain all the elements needed to be able to go ahead with the judicial investigation. The Guatemalan Government will report on the case and on the progress made in the investigation to the Special Rapporteur.

Guinea

73. On 11 December 1989 the Special Rapporteur sent an urgent appeal to the Guinean Government stating that Bernard Bangoura, François Bangoura, "Castro" Bangoura, Mohamed Ali Kamara, Togba Traore and Mamadou Sow had been arrested between 15 and 17 November 1989 and were said to be held incommunicado at the headquarters of the Directorate of National Security in Conakry. According to information received, these persons have been tortured.

Haiti

74. On 6 April 1989 the Special Rapporteur addressed a letter to the Haitian Government transmitting information about recent reports of cases of torture and ill-treatment, more particularly the practice of beating up persons under arrest, in Haiti. The following cases were brought to the attention of the Special Rapporteur:

(a) Farel Joseph: He was arrested on 15 November 1988 for unspecified reasons and reportedly taken to the Anti-Gang Investigation Squad. His body was found on 24 November 1988 in the Port-au-Prince morgue. According to sources, his body bore marks of ill-treatment. The head of the Anti-Gang Investigation Squad, Major Jean Eugéne José, told the press that Mr. Joseph had died in his cell on 17 November 1988 and that his death was definitely due to his delicate state of health;

(b) Clédanor Nonsant: Arrested in Léogane for unspecified reasons, he was taken to the Faustin Soulouque barracks in Petit-Goâve. He died in hospital on 15 December 1988 after, according to the sources, he had been severely beaten up by soldiers from Léogane and Petit-Goâve;

(c) Ernest Louisdor: Arrested on 9 January 1989 by Sergeant Frantz Florestal from the Pétion-Ville garrison, who accused him of being a thief. He was taken to the Carrefour military post, where soldiers reportedly beat him all over the body and subjected him to ill-treatment, including the "djak position". After being released, Mr. Louisdor was taken to a hospital in Port-au-Prince and treated for internal bleeding and other serious injuries. Sergeant Florestal is then said to have threatened to kill Mr. Louisdor and his family.

75. On 2 January 1989 the Haitian Government addressed a letter to the Special Rapporteur, citing a number of decrees and other measures adopted by the Government since it had taken office on 17 September 1988, to ensure respect for and promotion and protection of human rights. With reference to the case of Mr. Ernest Louisdor, a memorandum dated 27 February 1989 from the Police Headquarters in Port-au-Prince, annexed to the letter, stated that an inquiry had been conducted into the affair and had revealed that Mr. Louisdor was beaten by soldiers at the Carrefour Outpost, who said that they had done so because he had refused to obey their orders. Disciplinary action has been taken against them. The Haitian Ministry for Foreign Affairs had, for the time being, no other information on the other two cases mentioned in the letter.

76. On 13 November 1989 the Special Rapporteur addressed a letter to the Haitian Government transmitting information that on 1 August 1989 members of the police in Cap Haïtien arrested Jean-Robert Lalanne, aged 28, a leading member of the National People's Assembly (APN). Mr. Lalanne was reportedly held without charges at the police station for 24 hours and severely tortured during that time. According to Mr. Lalanne, the police chief, whose name was transmitted to the Government, ordered six or seven policemen present to hit Mr. Lalanne. He was tied up in the "djak" position and the policemen clubbed him until he fainted. Later, a lieutenant, whose name was also transmitted to the Government, is again said to have beaten him severely. The next morning, he was taken to "Criminal Investigations", where seven policemen again tortured him. Immediately after he was released, Mr. Lalanne had to be hospitalized at the Hôpital Justinien, where Dr. Gérard Lubin treated him. In a medical certificate dated 4 August 1989 Dr. Lubin certified that on 2 August 1989 he had examined Mr. Lalanne for multiple injuries as a result of a beating by the police. The doctor found considerable inflammation and swelling on both of the patient's buttocks and concluded that approximately two months would be needed for surgery and medical attention.

77. On 20 November 1989 the Special Rapporteur sent an urgent message to the Haitian Government stating that Mr. Jean Auguste Mesyeux, a member of the Haitian Workers Independent Federation (CATH), Mr. Evans Paul (alias Konge Plume), a member of KID, and Mr. Marino Etienne, a member of the 17 September People's Organization (OP-17), were arrested on 1 November 1989, apparently charged with conspiring against the Government. On 2 November 1989 the three detainees were shown on television and, according to the information received, it seemed obvious that they had been severely ill-treated. The people guilty of this maltreatment were

reportedly members of the Presidential Guard. The three detainees are now said to be in the National Penitentiary and their state of health is a matter of concern.

Honduras

78. On 6 April 1989 the Special Rapporteur sent a letter to the Government of Honduras transmitting information that Francisco Briones Castellón and Erick Meyer García, students aged 19 and 22 respectively, and members of the Sandanista People's Army (EPS), were kidnapped at the end of November 1988 in Somotillo, Department of Chimandega, Nicaragua, by members of the Nicaraguan counter-revolutionary forces. According to the information received, these two persons were beaten up, tortured and taken off to Honduras in a lorry. Mr. Briones is said to have had a recent operation on his pancreas. It was also reported that Mr. Briones and Mr. Meyer were in a very bad state of health and their conditions of detention were inhuman, as a result of which Mr. Meyer had contracted a skin disease.

79. On 18 July 1989 the Special Rapporteur sent a letter to the Government of Honduras transmitting information on the detention of Mr. Tulio Mancia García by members of the National Police Directorate (DNI) on 7 April 1989. According to the information, Mr. Mancia García was beaten up and tortured while he was in detention and was then released.

80. On 16 August 1989 the Special Rapporteur sent an urgent message to the Government of Honduras about the case of Mr. Víctor Miguel Maza Elvir, the head of a co-operative, who was kidnapped on 31 July 1989 in the Guanacaste district of Tegucigalpa by members of the National Police Directorate (DNI) who reportedly carried him off to clandestine prisons where he was tortured for five days and threatened with death if he reported that he had been tortured. According to the complaint, this person is now in the Central Penitentiary, along with José Oscar Luna Palacios, Manuel de Jesús Alvarado Herrera and José Martin López Romero, who said that they had been tortured. The complaint states that these persons are still being subjected to ill-treatment in the penitentiary, such as doing the hardest work for other privileged inmates; the object is to break down their morale and their mental balance.

81. On 25 September 1989 the Government of Honduras informed the Special Rapporteur that, on 5 September 1989, in the Central Penitentiary in Tegucigalpa, Mr. Edwin Boehi, regional delegate of the International Committee of the Red Cross (ICRC) spoke with detainees, Maria Luisa Ochoa Zelaya, José Oscar Luna Romero, Víctor Miguel Maza Elvir and Manuel de Jesús Alvarado Herrera. According to the ICRC delegate, they were in perfect health and they said that they had already been notified of the detention order, that counsel would be appointed for them the following week, and that in general they received good treatment.

82. On 20 October 1989 the Special Rapporteur sent an urgent message to the Government of Honduras about the case of José Alfredo Díaz Amaya, arrested on 7 September 1989 at his home in Intibuca by three military intelligence agents from the Infantry Battalion in Marcala, La Paz. When she visited him at the Battalion's barracks, his wife reportedly found that he had been the victim of physical and mental torture to force him to confess that he was a member of the Farabundo Martí National Liberation Front (FMLN) of El Salvador.

India

83. On 14 December 1989 the Permanent Mission of India to the United Nations Office at Geneva sent the following information to the Special Rapporteur in reply to his letter of 10 June 1988 (see E/CN.4/1989/15, para. 54):

> "Mr. Balkar Singh, a Canadian national, came to India on 7 October 1987 as per endorsement on his passport. In the beginning of November 1987, Amritsar District Police received information about his criminal activities and put him under arrest on 6 November 1987. Among cases registered against him were:
>
> (i) First Information Report (FIR) No. 144 dated 6 November 1987 under Section 3/4 Terrorist and Disruptive Activities Act, 25/54/59 Arms Act, Police Station 'A' Division, Armritsar, for recovery of 19 live cartridges of PW-73 without any licence;
>
> (ii) FIR No. 157 dated 23 December 1987 under Section 14, Foreigners Act, Police Station 'A' Division, Armritsar, for entering Punjab without a special permit.
>
> "After arriving at Armritsar Mr. Balkar Singh established contacts with extremist gangs operating in Punjab. He visited district Jalandhar in clear violation of the provisions of the Foreigers Act. He has also been closely associated with terrorists living in Canada as well as in India, particularly in Punjab.
>
> "In November 1987 in Armritsar, Mr. Balkar Singh appeared before a team of Canadians who had been granted consular access to him. He deliberately pretended to limp and levelled allegations of torture and illegal confinement. However, Mr. Singh could not show any visible mark of physical injury and the allegations of torture were not substantiated.
>
> "Mr. Balkar Singh was medically examined on 16 November 1987 and the Medical Officer's report showed that the allegations of torture could not be established. Furthermore, a detailed report was also received from the Senior Superintendent of Police, Amritsar, in which allegations of torture were not only denied but a counter allegation was made that this was done by him deliberately so as to defame the Indian Police.
>
> "Mr. Balkar Singh was released from the Central Jail, Amritsar, on 25 October 1988 and was deported from India on 28 October 1988."

84. On 12 December 1989 the Permanent Mission of India to the United Nations Office at Geneva sent the following further information to the Special Rapporteur in reply to his letter of 10 June 1988 (see E/CN.4/1989/15, para. 54):

> "R.P. Dindod, District President of a farmers' union in Rajasthan is a man of extremist views. He had been inciting the tribals of his area to take to violence. He had been charged by the Police of Rajasthan, India, for various offences related to the breach of peace. He and his six associates were arrested by police on 14 August 1987 under Sections 151, 107 of the Indian Penal Code for creating chaos and breach of peace in village Daryati and surrounding areas. They were kept in

> judicial custody for not furnishing a bond for good behaviour. Later they confessed their crime, on 25 August 1987, and furnished bonds for bail for good behaviour, and hence they were released by the court. Cases against Ram Prasad Dindod and his associates are pending in the courts. As regards the allegations of torture of Ram Prasad and his associates by the police, these are baseless. These persons were neither harassed nor threatened in any way."

85. On 6 April 1989 the Special Rapporteur addressed a letter to the Government of India transmitting information alleging that Th. Stephen, a teacher aged 28 from Ngamju village, Senapati district, had been arrested on 19 December 1988 by members of the Assam Rifles and taken to their headquarters in Lairouching, where he was tortured (with electric shocks) and threatened. A doctor who examined him on 21 December 1988 in Lairouching camp allegedly refused to take note of his complaint that he had been tortured. He was said to complain, at present, of blurred vision and inability to sleep. Two other witnesses were also reported to have been arrested shortly after they had given evidence in court. One of them, N. Sekho, alleged having witnessed the torture of dozens of people by members of the Assam Rifles in July and August 1987, near Oinam, and said he had seen some of their bodies shortly afterwards. The chief judicial magistrate of Tamenglong district, who was recording testimonies by women on attempted rape by Assam Rifles members, was arrested at Ommenglong on 6 May 1988, and later alleged that he had been tortured (by electric shocks).

86. On 8 September 1989 the Government of India informed the Special Rapporteur that Mr. Th. Stephen had been apprehended by a patrol of 21 Assam Rifles for being in possession of two hand grenades and ammunition. The allegations made by him were "concocted and a deliberate attempt to discredit the Assam Rifles and cover up his involvement with the underground movement". Mr. N. Sekhon's allegations that he had been a witness to the torture of dozens of people by Assam Rifles in July and August 1987 were false. Mr. Sekhon was presently an active supporter of the National Socialist Council of Nagaland and was reportedly involved in an attempt to raid a post of the Security Forces towards the end of July 1988. He was subsequently arrested by the civil police. As to the allegation that a magistrate was arrested as he was recording testimonies by women on attempted rape by Assam Rifles personnel, this was patently false, as there was no existing case of attempted rape by Assam Rifles personnel. The magistrate, Mr. Max Phazang, was arrested for alleged involvement with the underground movement in carrying out an ambush in April 1988, in which 10 policemen were killed. The case arising from his arrest and alleged ill-treatment was now sub judice and was being dealt with by the Guwahati High Court, Assam.

87. On 8 September 1989 the Government of India addressed a letter to the Special Rapporteur replying to a letter sent by him on 6 April 1988 (see E/CN.4/1989/15, para. 53), concerning the cases of Mr. R.H. Mahir, Mr. Mohinder Kumar and Mr. Ram Kumar. As regards Mr. Mahir, who died on the night between 23 and 24 August 1987 after being allegedly beaten by police personnel, a post mortem was carried out. The Medical Officer opined the cause of death as "craniocerebral injury" and the time since death as "about 12 hours". On the basis of a complaint lodged by Mr. Mahir's mother and the post mortem report, the case was registered and investigated. During the investigation witnesses stated that the deceased was moving around on 23 August 1987 and no visible injuries were seen on his body. Given the

Medical Officer's opinion that the duration of ante-mortem injury was 12 hours, the possibility that Mr. Mahir had died of injuries caused by police on 22 August 1987 must be ruled out. (The deceased was arrested by Welcome Police on 22 August 1987 and was released on bail the same evening.) Furthermore, it was reported that the deceased had some promiscuous relationship with a girl in his neighbourhood, resulting in frequent quarrels. The case was still under investigation and a report of the Central Forensic Science Laboratory regarding the deceased person's viscera was awaited. As regards the case of Mohinder and Ram Kumar, both were arrested on 24 August 1987. Mohinder Kumar died on 25 August 1987 in hospital. A magisterial inquiry was conducted by Sub-Division Magistrate Shahdara, in which it was concluded that Mohinder Kumar died due to blunt injuries inflicted on him by an agitated mob before he was arrested by police. The case was still under investigation. No arrests had been made and no police official had been found responsible for the death.

88. On 16 November 1989 the Special Rapporteur addressed a letter to the Government of India transmitting information concerning several reports of alleged torture in the state of Bihar. Police agents, or people acting with police assistance, were said to be responsible for such acts, and most of the victims were women belonging to underprivileged groups, such as scheduled castes or "harijans", and a tribal community known as "adivasis". The following detailed cases of alleged torture were reported:

(a) Malati Manjhiyan, aged 18, from Pandarpala settlement near Bhuli, Dhanbad District, was allegedly stripped naked and beaten by seven policemen until she lost consciousness, on 5 July 1989;

(b) Om Prakash Keshri, a Congress Party worker from Vishrampur and member of the Indian National Students' Union of Congress, was arrested by the Vishrampur police on 24 June 1989. Later on the same day he was allegedly taken into the police station compound, hung from a tree and repeatedly beaten on the soles of his feet and on his legs. Subsequently, he was taken down from the tree and petrol was poured all over his body. He was again beaten till he became unconscious. The next day he was taken to a police official's home, where he was beaten until he fell down. The police official allegedly stood on his stomach with his boots on and turned around in circles. Mr. Keshri reportedly vomited blood and again lost consciousness. Following his release on bail on 27 June 1989 Mr. Keshri was admitted to Daltonganj hospital.

It was also repo[illegible] that two police officials, whose names were transmitted to the Government, [illegible] Shalimar Bagh, Delhi, were involved in an incident on 26 June 1989 in which several children and youths aged 6 to 18, suspected of theft, were taken to the police station and were allegedly beaten and tortured. It was alleged that some of the children were subjected to electric shocks. The children concerned were identified as: Munni, aged 13, daughter of Ratan Lal; Lala, aged 13, son of Ghaisu Ram, from a village in Rajasthan; Sharavan Kumar, aged 12, son of Pancham Singh; Shiv Kumar, aged 18, son of Prem Kumar; Jeetu, aged 16, son of Mangal; Babli, aged 10, son of Mangal; Asa, aged 10, daughter of Prem Singh; Ghan Shyam, aged 11, son of Juggal Kishore; Babulal, aged 11, son of Shyam Lal; Manoj, aged 6, son of Prem Singh; Macchla, aged 10, daughter of Aji Ram Matkarala.

Indonesia

89. On 14 November 1989 the Special Rapporteur addressed a letter to the Government of Indonesia transmitting information alleging that some of the people detained in various military detention centres in East Timor, at the end of 1988 and the beginning of 1989, were held incommunicado and had allegedly been subjected to ill-treatment and torture. The Apostolic Administrator of Dili, Monsignor Belo, claimed in a Pastoral Note dated 5 December 1988 that the ill-treatment of detainees in East Timor, including "blows, kickings and beatings", was commonplace. In a letter he sent on 16 February 1989 to the Apostolic Nuncio in Jakarta, Monsignor Belo mentioned the names of seven Timorese from the village of Ahio-Dilor who had been badly beaten by security personnel in late October 1988. They were: Araujo Fernandes, Agostinho Lo'o, Francisco Parada Martins, Luis Ximenes, Loi'Ouela, who reportedly had his head split open, Alarico Martins and Moises Ximenes. In addition, it was reported that three men suspected of compiling information about human rights and distributing it to people outside the territory were among those who had allegedly been tortured. They were Filomeno Gomes, aged 40, arrested in November 1988, Lazaro Ribeiro, aged 26, arrested on 24 October 1988, and Jaime Dos Santos, aged 41, arrested on 5 November 1988. The forms of torture alleged to have taken place in detention centres included: beating and kicking, burning with lighted cigarettes, electric shocks, placing heavy weights on prisoners' feet, submersion in a tank of water for several hours, forcing a prisoner to drink salt water or to stand in boiling water, threats and sexual abuse.

Israel

90. On 17 April 1989 the Special Rapporteur addressed a letter to the Government of Israel transmitting information concerning the case of Mr. Mohammed Jadallah, born in 1941 in Jerusalem. Mr. Jadallah was reportedly detained and interrogated on two occasions: in October 1985 he was detained and interrogated for 34 days at the Moscobiya police station (Russian Compound) in Jerusalem, following which he was put on trial on unspecified charges and sentenced to six months' imprisonment, which he served in Ramla, Beersheba and Damun prisons. The second period occurred between 21 October and 3 November 1988, upon his return from the United States of America, where he visited medical institutions and attended conferences in relation to his work. He was again detained and interrogated at the Moscobiya police station. Mr. Jadallah was allegedly accused of being an activist and inciter in the struggle against the occupation and of political activism. He acknowledged being a member of the Association of Palestinian Physicians and a member of its Board since 1983.

91. On both occasions Mr. Jadallah was allegedly subjected to extremely harsh methods of interrogation, involving physical and psychological pressure, which were allegedly used to extract a confession from him. These included the following: being left outside and tied in an uncovered yard, day and night, irrespective of weather conditions; being handcuffed, with hands behind the back, tied to the wall, for up to 26-28 hours; being deprived of food, water and sanitary facilities, for up to three days at a time; being beaten by interrogators, while held in various positions, to the point of losing consciousness; being kicked and stamped upon after falls from beatings; being beaten on the front of the neck, resulting in breathing difficulties, hoarse voice and numbness or paralysis of the left side of the face and

tongue; being left with a dirty sack or hood placed over the head for the whole period except during interrogation, which caused breathing difficulties and drowsiness. The names of the persons allegedly responsible for these practices were transmitted to the Government. Towards the end of his stay in detention in October 1988 he shared a cell with Mr. Iz Edin Aryan, a pharmacist whom he knew, who was the Chairman of the Red Crescent Society in the West Bank. Mr. Aryan had allegedly been severely tortured.

92. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of Israel transmitting information contained in numerous reports he had received alleging severe beatings of Palestinians in the occupied territories while in the custody of members of the Israel Defence Forces (IDF) or the Border Police. Several such cases were reported in detail:

(a) Fihmi Hussein Daoud Ishtayeh, aged 41, from Salim village near Nablus. On 22 March 1989 he was shot and injured by soldiers who arrived in the village following a demonstration. According to Ishtayeh and eyewitnesses, as he was lying on his back, soldiers jumped on him, beat him with clubs, rifle butts and stones, and dragged him by his neck for a distance of 200 metres during which a soldier kicked and beat him on his head with a helmet. He fainted, and when he regained consciousness a soldier burned the skin of his ear with a cigarette lighter. Soldiers also burned his left foot with cigarettes and pulled his moustache. The soldiers eventually drove him to hospital where an operation was performed on his foot and stomach. Ishtayeh was reportdly at present confined to bed or a wheelchair and could not move around without assistance;

(b) Ra'ad Adwan, aged 15. On 26 April 1989 he was stopped in Nablus by eight border policemen. One of them hit Adwan's head against their jeep, and then he was beaten by others, sometimes with rifle butts, for several minutes on various parts of his body and kicked in the stomach. He was then taken to hospital and underwent intestinal surgery;

(c) Nidal Qa'bi, aged 20. On 27 April 1989 he was stopped, together with his father, by some 15 border policemen, in the Balata refugee camp, near a spot where a tyre was burning. He was ordered by the policemen to extinguish the tyre and clean the road, and when he refused some of the policemen started beating him with clubs and rifle butts. After he fell to the ground they dragged him near the burning tyre, dropped his hands on it, and left him there. He was taken to hospital in a state of semi-consciousness. The injuries he sustained included a fracture of the nose, lacerations to the face and head, requiring stitches, and burns to his hands.

93. On 4 October 1989 the Special Rapporteur sent an urgent appeal to the Government of Israel concerning the case of Amin Muhammad Yousif Amin, aged 21, who on 1 August 1989 was arrested by the Israeli military authorities in Ramallah. On 5 August 1989, he was reportedly transferred from Ramallah prison to Dhahiriya army detention camp and was almost continuously interrogated, for the following 24 days, by a team of five Israeli security personnel, whose names, or nicknames, were transmitted to the Government. During that period he was allegedly tortured. The methods of torture included severe beatings, electric shocks, denial of sleep and prolonged periods of exposure to harsh weather. His request to see a doctor was denied for several days and his hospitalization was delayed for five days despite a doctor's

recommendation. As of 15 September 1989, Mr. Amin was said to be still in the Ayalon prison hospital in Ramleh prison complex. Mr. Amin, who was said to have suffered from a liver disease, was recovering from hepatitis at the time of his arrest.

94. On 16 November 1989 the Special Rapporteur addressed a letter to the Government of Israel transmitting information alleging that Sha'wan Rateb Abdullah Jabarin, aged 29, was arrested on 10 October 1989 in his home in Sa'ir, Hebron district, by security forces and taken to the "Khashabiya" police detention centre in Hebron. There he was allegedly severely beaten on the afternoon of 11 October 1989 by members of the security forces until he lost consciousness. According to eyewitnesses an army doctor tried to intervene and examine him, but soldiers continued to beat him as he was lying on the ground being examined by the doctor. On the doctor's recommendation, Sha'wan Jabarin was transferred to the Hadassa hospital in Ein-Karem, Jerusalem, where he received oxygen and treatment for a severe bruise on the forehead. It was alleged that for five days following his hospitalization he was unable to move unaided. It was further alleged that 16 days after the beatings Sha'wan Jabarin had swellings above both his eyes, and that cigarette burns were still visible on his body. Sha'wan Jabarin has reportedly been in poor health since his release in December 1988 from nine months' administrative detention. He was said to have a heart condition and back problems, for which he was receiving physiotherapy. He was at present reportedly serving a one-year administrative detention term at the Ketziot detention centre.

Italy

95. On 2 October 1989 the Special Rapporteur addressed a letter to the Italian Government transmitting information that a number of cases of ill-treatment inflicted on detainees had been reported in 1988. In most cases, the treatment was reportedly inflicted during the questioning and the persons responsible are policemen, carabinieri or members of the Revenue Guard (Guardia di Finanza). The following cases were reported:

(a) Medical staff at the San Vittore prison in Milan reportedly sent a dossier to the office of the Milan Public Prosecutor at the beginning of April 1988 about an "alarming increase" in the preceding months in the number of prisoners arriving at the prison with injuries requiring medical treatment. According to the report, the injuries suffered by the prisoners under arrest were in all likelihood the result of ill-treatment. According to the persons concerned they had been beaten up or kicked after being arrested by the police, the carabinieri or members of the Revenue Guard. The Public Prosecutor is said to have started an inquiry in April 1988, but the findings are unknown;

(b) Kader Fall, a street vendor and 24-year-old immigrant from Côte d'Ivoire, was arrested by police officers at Civitanova on 16 April 1988, his goods were confiscated and he was released. Later, he returned to the police station to try and get his goods back. That evening, he was admitted to hospital, unconscious and with many contusions on his face and body. According to Kader Fall, when he returned to the police station he was beaten and kicked and punched. The police denied these allegations. According to the Ministry of the Interior, the case was being examined by the judicial authorities in January 1989. The findings are not known;

(c) Domenico Garzon, a heroin addict, aged 28, was arrested on 26 May 1988 and held at the carabinieri station at San Bonifacio, near Verona. After attacking a guard when he was in need of a fix, he was handcuffed behind his back and, during the night of 26 May 1988, was reportedly beaten up by carabinieri. He was kicked in the stomach, the head, his back and his legs. The following morning he was transferred to the Verona district prison. A medical certificate issued on that day by the doctor on duty at the prison certified many contusions, scratches and oedemas in various parts of the body. On 9 August 1988 Domenico Garzon laid a complaint with the Office of the Public Prosecutor for the Verona region. A judicial inquiry was started, but according to the same source, the complaint was filed away on 17 January 1989 and Domenico Garzon was not questioned in connection with the allegations, nor did the body to which he had complained engage in any examination to find out the causes of the injuries stated on the medical certificate of 27 May 1988.

Jordan

96. On 6 April 1989 the Special Rapporteur addressed a letter to the Government of Jordan transmitting information alleging that in early October 1988 and in the period between 17 and 22 January 1989 prisoners held in Al Swaqa prison, south of Amman, had allegedly been beaten and seriously ill-treated after protesting against their prison conditions. The prisoners who were allegedly subjected to severe ill-treatment were reported to be political prisoners. They included the following: Jamal al-Nusoor, who was allegedly severely ill-treated on 2 October 1988 and was subsequently placed incommunicado for 28 days; Maher Abu Ayyash, Umar Al-Dawaymah, Yusuf Al-Dawaymah, Ja'afar Muhammad Fares, Nihad Hasura Abu Ghawsh and Jamal Maqdawi, who were allegedly beaten and severely ill-treated on 10 October 1988, after protesting against the ill-treatment inflicted on Jamal al-Nusoor; Lua'y Dabbagh, who was allegedly hung or tied to a cell gate and beaten in front of other prisoners on 21 January 1989. In the period since 17 January 1989 other prisoners were reported to have been beaten. Between 12 and 18 of them, including the aforementioned Jamal al-Nusoor, Lua'y Dabbagh, Maher Abu Ayyash, and Umar Al-Dawaymah, as well as Khaled Daud Abdullah, Ahmad Dahbur, Muhammad Mahmud Fadaylat, Musa Mahmud Fadaylat, Brik Al-Hadid and Aref Zghul, were reported to have been placed in solitary confinement.

97. On 31 October 1989 the Government of Jordan informed the Special Rapporteur that the competent Jordanian authorities had indicated that the prisoners held at reform and vocational rehabilitation centres were treated in a humanitarian manner based on respect for their rights and dignity. There was no truth to the allegations concerning their ill-treatment or the placing of some prisoners in solitary confinement, as alleged in the reports annexed to the Special Rapporteur's letter. With regard to the prisoner Jamal al-Nusoor, the competent authorities had indicated that, due to his repeated violations of the internal prison regulations, he had been tried by a competent body, which had imposed disciplinary sanctions in accordance with the provisions of the Prisons Act.

Malawi

98. On 6 April 1989 the Special Rapporteur addressed a letter to the Government of Malawi transmitting information alleging that four journalists who had been arrested in May 1988 and detained at Mikuyn Prison, near Zomba,

had been tortured in custody. Three of them had later been released. The fourth had died in November 1988, allegedly from injuries sustained under torture. He was named as Osborne Mkandwaire, aged 37, who was reportedly employed by the Department of Information, in the Office of the President and Cabinet.

Mali

99. On 2 October 1989 the Special Rapporteur addressed a letter to the Government of Mali transmitting information that Mr. Adama Bantjini Coulibaly and Mr. Souleymane Dembélé, two students at the National Engineering School, were arrested by security forces on 19 June 1989 and reportedly held without charge in the "Commando Camp" at Djikorani, near Bamako. According to the same source, they were tortured and suffered other ill-treatment. Two other students from the same school, whose names have not been reported and, according to the same source, were arrested at the same time as Mr. Coulibaly and Mr. Dembélé, are said to be held at State Security Headquarters in Bamako. The four students are reportedly being held incommunicado and are unable to receive visits from their family or lawyer.

Mauritania

100. On 25 July 1989 the Special Rapporteur sent an urgent message to the Government of Mauritania stating that Mr. Abdallah Ould Bah Nagi Ould Kebd, Chairman of the Students Union at the University of Nouakchott and a member of the Independent Democrats Organization, was arrested on 29 May 1989 and reportedly held incommunicado, without charge or trial, in a building belonging to State Security at Ilot K, Nouakchott. According to the information recieved, Mr. Ould Kebd was ill-treated and tortured by members of the Security Forces after he was arrested. Neither his family nor his lawyers are entitled to visit him. In addition, Mr. Ould Kebd, together with four other students arrested in December 1988 after a strike at the University, are said to have been severely tortured, more particularly by the method known as the "jaguar".

101. On 20 July 1989 the Special Rapporteur sent an urgent message to the Mauritanian Government stating that a number of officials, including Mr. Oumar Tall, aged 22, Mr. Amadou Tidiane Ly, aged 39, Mr. Mamadou Diop, aged 40, and Mr. Abdoulaye Wane, had been arrested in various towns and held incommunicado by the police since May 1989. According to the information received, they were being held without charge in Nouakchott in houses used by the security police as interrogation centres. These persons were reportedly tortured during detention, more particularly by the method known as the "jaguar".

102. On 2 October 1989 the Special Rapporteur addressed a letter to the Mauritanian Government transmitting information that, after a strike movement at the University of the Nouakchott, on 28 December 1988 the State Security departments apprehended dozens of students said to be among the leaders of the movement. The students were reportedly taken to a detention centre in an isolated industrial zone and were tortured for several days. The names of two of the persons alleged to be responsible were transmitted to the Government. The tortures included kicking, truncheon blows, whipping the soles of the feet and other parts of the body, being strung up by the legs over an iron bar, with the arms bound over the legs and the head hanging down (the "jaguar"

method), loss of sleep, forcing a person's head into a basin filled with water and filth. The purpose was to extract confession or obtain information on various movements and on any participation by non-student groups in the strike. Testimony concerning the following students was brought to the knowlege of the Special Rapporteur; all are said to have been subjected to the above-mentioned tortures:

(a) Bechir El Hassen, Chairman of the Students Association, University of Nouakchott. He was arrested on 28 December 1988 and released on 1 January 1989. He reportedly had to spend a week in bed after the tortures and ill-treatment inflicted on him during his detention;

(b) Abdallah Ould Bah Nagi Ould Kebd, a member of the University of Nouakchott's Co-ordination Commission (an urgent message was sent in connection with him on 25 July 1989). As a result of tortures and ill-treatment inflicted while he was under detention, he had to go to the National Orthopaedics and Functional Rehabilitation Centre, where medical care was prescribed for 10 days;

(c) Mohamed Mahmoud Ould Hamma Khattar, University of Nouakchott. After being released, he said that doctors contacted by students who, like him, had suffered torture and ill-treatment, refused to issue health certificates for fear of reprisals by the police;

(d) Boubacar Ould Ethmane, known as Nah, University of Nouakchott.

103. On 27 November 1989 the Special Rapporteur sent an urgent message to the Government of Mauritania stating that at least 12 black Mauritanians, including Daha Ba, aged 21, Ibrahima Ba, aged 23, Ali Djibi Gaye, Mamadou Koundio and Ladji Traore, aged 53, all from Nouakchott, were arrested in October 1989 and held incommunicado, without charge or trial, in houses in the Nouakchott region used by the security forces as interrogation centres. Fears have been expressed about their physical integrity, in view of reports of tortures of black Mauritanians held in Nouakchott.

Morocco

104. On 19 June 1989 the Moroccan Government addressed a letter to the Special Rapporteur, in reply to a letter addressed to the Government on 17 July 1986, concerning a number of cases of detainees reportedly tortured after being arrested in October and November 1985. In its reply the Government informed the Special Rapporteur that six of these detainees, Saïd Mesbahi, Abdellatif Saoui, Mohamed Saadi, Mohamed Schrado, Mohamed Daiby and Abdelbaki Yousfi, were released by royal amnesty in connection with the feast of Aïd Al Fitre, on 7 May 1989.

Myanmar

105. On 23 December 1988 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning the case of U May Min, 42 years old, lawyer, who was detained on 21 October 1988 under provisions of the 1975 State Protection Law. It was reported that he was being held in Mingaladon detention centre, north of Yangon. It was alleged that U May Min appeared twice in court, on 7 and 24 November 1988. On the second occasion he was remanded for further detention and complained of ill-treatment. Fears had been expressed that he might be subjected to torture.

106. The Government of Myanmar replied, in letters dated 13 February and 1 March 1989, that the person concerned had been detained on 8 November 1988 and kept in the Insein jail, under section 10(A) of the State Protection Law, for having sent false news and rumours about the situation in the country to the BBC, an offence to which he confessed during his interrogation. The Government affirmed that he had not been subjected to any form of torture, either during interrogation or while in detention, and that he was said to be in good health at the time the letter was sent (1 March 1989). A medical report dated 2 February 1989 by the officer in charge of the Central Jail hospital, Insein, was enclosed with the letter, affirming the person's good health.

107. On 20 January 1989 the Special Rapporteur sent an urgent appeal to the Government of Myanmar concerning information alleging that Sao Myo Wyn Tun, Kyi Moe and Tu Ain Tin, along with 20 other students, had been forcibly repatriated from Thailand on 7 January 1989. After their return to Myanmar they were taken into military custody for questioning. A fourth student, Thant Zin, was reportedly repatriated to Myanmar on 26 December 1988 along with 81 others. He was arrested shortly after his arrival at his home town of Mergui in southern Myanmar. Fear was expressed that these four students may be subjected to torture. It was also reported that Zan Win Tun, resident in Yangon, had allegedly been arrested and held incommunicado without charge or trial. He was said to have died after his release from military custody on 30 December 1988 as a result of severe ill-treatment sustained while in custody.

108. On 2 February 1989 the Government informed the Special Rapporteur that the three students mentioned in the cable had arrived in Yangon, together with 23 other students, on 7 January 1989, and were sent back to their homes the same morning or the next day. The fourth student had reportedly been interviewed in his home in Yangon on 7 January 1989, and categorically denied having been interrogated or harassed in any way. The allegation concerning the death of Zan Win Tun was flatly rejected, as part of an anti-Myanmar campaign. It was further affirmed that the repatriation of the students had not been forced as alleged, and that the students had returned home of their own accord.

Nepal

109. On 2 October 1989 the Special Rapporteur addressed a letter to the Government of Nepal transmitting information alleging that Surendra Chettri, a worker at the Hetauda Engineering Works, died on or around 14 June 1989 in the District Hospital, allegedly as a result of torture to which he had been subjected one month earlier. He was reported to have been arrested by police, together with three other workers, on 16 May 1989 in connection with alleged involvement in the theft of a cash box in the Hetauda Engineering Works. It was alleged that the four suspects were tortured while in police custody, in order to obtain confessions. Surendra Chettri was later released and went back to his job, but his state of health was reported to be very poor, and on 14 June 1989 he fainted and started to bleed from his nose and ear, and later died of loss of blood. It was not known whether a post-mortem or any investigation into the cause of death had been conducted by the competent authorities.

Nicaragua

110. On 24 May 1989 the Special Rapporteur sent an urgent message to the Government of Nicaragua about the following Honduran citizens said to be in the Tipitapa Model Prison in Managua: Ignacio Alvarenga López, from Guinope, El Paraíso; Michel Chael Busin Yustow, from Puerto Lempira; Erick David Canales, from San Pedro Sula; José Luis Garmendia Toruño, from Danli; Gregorio Méndez Pérez, from El Triunfo, Choluteca; Francisco Naraten García, from San Pedro Sula; and Roberto Waldam Perea, from Puerto Lempira. All these persons are in Wing No. 5 of the prison, which is regarded as a punishment wing. Concern has been expressed about their physical and mental state, for according to 21 Honduran citizens reportedly held at the same prison from 1979 up until their release on 22 March 1989, they had been tortured and subjected to other ill-treatment.

Panama

111. On 11 August 1989 the Special Rapporteur sent an urgent message to the Government of Panama about Humberto Montenegro, who was seriously wounded by persons in the uniform of the Batallón de la Dignidad, in the course of a demonstration on 10 May 1989. He was taken to the Santo Tomás Hospital, where he stayed until 8 June, when he was taken to the Model Prison, at which he is now an inmate. According to information received, Mr. Montenegro's state of health is very poor.

112. On 16 October 1989 the Government of Panama informed the Special Rapporteur that Mr. Humberto Montenegro was being held on a charge of murdering Mr. Alexis Guerra on 10 May 1989, in Panama City. Since his arrest he has been given special medical treatment for injuries suffered on the day of the event and in prison he is under constant medical supervision and, as a result, has recovered completely.

Peru

113. On 13 February 1989, the Special Rapporteur sent an urgent message to the Government of Peru about Mr. Hugo Blanco Galdós, an executive of the Peruvian Peasant Confederation and a former deputy. The information received indicates that he was arrested on 9 February 1989 at the premises of the Ucayali Peasant Federation in the town of Pucallpa, by members of the Police Special Operations Division. Fears have been expressed about his physical integrity, because other persons detained earlier as a result of trade union activities are said to have been tortured. Of special concern is the fact that, according to reports, about 28 members of the Ucayali Peasant Federation were killed on the same day by members of the same police division.

114. On 7 March 1989 the Government of Peru informed the Special Rapporteur that Mr. Hugo Blanco Galdós, described as a communist leader and political agitator, was arrested and a firearm taken from him after a dispute in Pucallpa between groups of civilians and policemen. On 18 February 1989, the Police Anti-Terrorism Sub-Directorate brought Mr. Blanco Galdós before the courts, on the grounds of implication in the offence of terrorism.

115. On 10 March 1989 the Special Rapporteur sent an urgent message to the Government of Peru about Gregorio Palomino Rivero, a peasant, and Cristobal Achoica Rojas, another peasant, aged 43. The former was arrested on

7 January 1989 in the peasant community of Lucre and the latter on 8 February 1989 in the peasant community of Circa, in the province of Abancay, Department of Apurimac. Both arrests were reportedly made by army personnel. Fears have been expressed about their physical and mental condition, because other persons arrested in this area maintained they had been tortured.

116. On 21 March 1989 the Government of Peru sent a letter to the Special Rapporteur about a case of complaints of torture of three persons transmitted on 11 May 1987. According to the Government, one of the persons, Erasmo Germán Javier Rodríguez, was arrested on 15 April 1986, together with three other offenders, while they were robbing a shop. They were taken to the Criminal Investigation Police station in Puerto Libre for inquiries. Mr. Rodríguez died of a heart attack on 16 April 1986 in the course of a reconstruction at the place of the events; it was proved by autopsy certificates and other formalities, in the presence of the Department of Public Prosecutions, that he had not been subjected to ill-treatment. As to the second person mentioned in the letter, Teresa García Bautista, the Government affirms that in 1988 no such person is listed as being arrested by police or military personnel. The third person mentioned in the letter, Lino Guevara Justo, an alleged terrorist, was killed during an attack on the Civil Guard Post at Azángaro Puno on 21 September 1986 by a group of subversives carrying firearms and explosives.

117. On 6 April 1989 the Special Rapporteur sent a letter to the Government of Peru transmitting information to the effect that the following cases of torture and ill-treatment occurred in the annex of Puccahuasi, Sañaica, Province of Aymaraes, Department of Apurimac, during the fiesta of Santa Rosa de Lima on 27 and 28 August 1988: Mercedes Gutierrez Caypani, physically ill-treated, and even sexually molested; Antonio Tinco, tortured at the District College; Andrés Torres Huamani, savagedly beaten up; Larrasce Huyhua, Eprocina Chipana, Llachua Jauregui Benite and other young persons from 18 to 30 years of age were raped and subjected to other violence at the District College; Gloria Cortés Chipana and Enrique Casablanca Chipana were tied up and hung from the beam of the ceiling at the District College; Mariana Huyhua was tortured to such an extent that he lost consciousness and vomited blood. He was taken on foot with three other detainees - Mercedes Gutierrez, Andrés Torres and Antonio Tinco - to the Cepoyo base. Some days later Andrés Torres was released, bearing marks of torture. The guilty persons are said to be a group of 30 army men from the Cepoyo military base, under the orders of Lt. "Marco Antonio" Castro. The Special Rapporteur also received complaints about the following cases:

(a) Jorge Altamirano and Luisa Quiroga Izquierdo, who were arrested by an army patrol while they were on their way from Santa Rosa to Colcabamba, Province of Abancay, on 14 October 1988, and they were taken to the Santa Rosa barracks. There, they stated, they were both tortured, more particularly by sharp blows, and the woman was raped. They were released on 24 and 25 October 1988, respectively, and were then hospitalized in the Abancay Regional Hospital because their physical condition was serious. These cases were communicated to the Abancay Provincial Criminal Prosecutor on 27 October 1988 and the Abancay Higher Prosecutor on 4 November 1988;

(b) Alejandrina Enciso Vera, a local Red Cross worker, was accused of robbery and held by the Criminal Investigative Police. It is claimed that she was tortured by members of the police and forced to sign a document stating that she had committed terrorist acts. Afterwards, it is reported that she was given barbiturates and DIRCOTE (Anti-terrorism Directorate) agents took her to the Abancay Regional Hospital, where it was established that torture had caused serious injuries to some vital organs. This case was communicated to the Abancay Criminal Prosecutor and to the Apurimac Higher Prosecutor;

(c) Luzmila Miranda Vargas was arrested on 16 September 1987 by policemen in the course of an army operation on the road between Tocache and Tingo María, Department of Huánuco. It was claimed that, while she was being question, she was tortured and sexually molested and forced to say she was guilty of the accusation of terrorism. This case was communicated to the Ministry of Defence and the Ministry of the Interior on 25 April 1987 and to the Attorney-General on 4 May 1987. It was reported that Mrs. Miranda Vargas was still in prison, but no more information has been received about the charges against her. It was also said that her husband Melvin Pérez Ríos, who had been arrested, tortured and then released, has been receiving serious threats to kill him;

(d) Cosme D'Arrigo Sachún, a Callao trade union executive in the education sector and an employee (driver) of the Ministry of Education, published in October 1988 an open letter denouncing irregularities in the administration of the education sector in which he was working and, from that point on, he received telephone threats calling on him to withdraw his statement. According to the complaint, on 23 December 1988, he was kidnapped in Calle Cahuide, La Perla, Callao, Lima, by individuals who identified themselves as members of the Peruvian Criminal Investigation Police and drugged him, until he was dumped on 28 December 1988 on the outskirts of the community of Poros, Department of Huánuco, with clothes he had not been wearing when he was kidnapped and were similar to those used by subversives in the area. On 5 January 1989, he was arrested, wearing the same clothes, by personnel of the Civil Guard station from the Unión District in Huánuco, for inquiries into his alleged connections with subversives. He was reportedly tortured while in custody.

118. On 9 May 1989 the Special Rapporteur sent an urgent message to the Government of Peru about Juana Lidia Argumedo. It is reported that she was arrested by the police on 28 April 1989 and, since that time, has been held at the 28 July headquarters of the National Police in Ayacucho, without any clear reasons given for her arrest. Concern has been expressed about her physical and mental state, because in September 1984 she was arrested by the infantry in Marina de Tambo, Province of La Mar, and according to her own statement before the courts, was beaten, raped, tortured with an electrical prod, strung up by her wrists and subjected to other tortures. Juana Lidia Argumedo is a sister of the guide who accompanied eight journalists and, with them, was killed in Uchurojay. She is said to have declared in the proceedings connected with this case that the military command in the region was responsible for those killings.

119. On 18 July 1989 the Special Rapporteur sent an urgent message to the Government of Peru about Eduardo Espinosa Cotrina, a 17-year-old workman; Bartolomé Damián Mauricio, a 28-year-old workman; Florentino Chávez Cornelio, a 30-year-old workman; Jorge Luis Balloso Velásquez, a 24-year-old workman; Jerry Dávila Tarazona, a 21-year-old peasant; Segundo Abraham Lozano Panduro, a 21-year-old peasant; Justiniano Segundo Caballero Izuiz, a 30-year-old

peasant; Hanoret Vásquez Vargas, a 17-year-old peasant; Milo Almandoz Leandro Paucar, a 24-year-old peasant; Gil Ronal Leandro Paucar, aged 31; Nelson Salgado Evangelista, aged 36; Juan de Dios Atachahua Garay, aged 39; Primitivo Espinoza Barrios, aged 36; Libio Egoavil Saavedra, aged 21, and Félix Laurencio Ubaldo, aged 47. These people were reportedly arrested on 26 June 1989 in the district of Ahucayacu, Province of Leoncio Prado, Department of Huánuco, by soldiers and taken off in three military helicopters to an unknown destination. Concern has been expressed about the safety and physical state of these persons.

120. On 17 October 1989 the Special Rapporteur sent an urgent message to the Government of Peru about Doctor Wilfredo Saavedra, aged 33, a lawyer and president of the Cajamarca Committee for the Protection of Human Rights, said to have been arrested on 19 September 1989 by members of the technical police force when he went to see a detainee. On 26 September 1989 a special commission consisting of Pedro Ortíz Cabanilla, dean of the Medical Association, a number of doctors and parliamentarians, went to Cajamarca to talk with prisoners alleged to have been tortured. The commission reportedly found that Doctor Saavedra's wrists bore marks of having been bound and there were contusions on his body.

Philippines

121. On 6 April 1989 the Special Rapporteur addressed a letter to the Government of the Philippines transmitting information alleging that Mr. Samuel Sabidalas, the regional co-ordinator of the National Federation of Sugar Workers - Food and General Traders, had been arrested in Isabela (Negros) on 23 December 1988. While in detention, he was allegedly severely beaten during five days, as a result of which he was said to have suffered a skull fracture.

122. On 10 April 1989 the Special Rapporteur sent an urgent appeal to the Government of the Philippines concerning information alleging that Miss Belen Tabamo, 30, had been arrested on 10 February 1989 in a military encounter between the 16th Infantry Battalion and the so-called New People's Army. Miss Tabamo was located on 10 March 1989 at the 16th Infantry Battalion Headquarters, Barangay Baanan, Magdalena Laguna, where she had been transferred from another military camp. She had allegedly been subjected to ill-treatment, physical and psychological harassment and torture, and was said to be on the verge of a nervous breakdown.

123. On 8 June 1989 the Special Rapporteur sent an urgent appeal to the Government of the Philippines concerning information alleging that Mr. Rafael Olite, aged 35, a resident of Reclamation Ares, Pasay City, had been arrested at Pasay City on 15 April 1989 by Intelligence personnel and taken to the prison of that town, where he was still being held. According to a medical report issued by a group called the Medical Action Group-Philipinnes Action Concerning Torture, Mr. Olite had been tortured while in detention.

124. On 17 July 1989 the Government of the Philippines transmitted to the Special Rapporteur a report prepared by the Commission on Human Rights of the Philippines, National Capital Region. According to the report, Rafael Olite was presently detained at the Pasay City jail, and was formally charged with illegal possession of weapons at the time he was apprehended. At the time he was visited by the Commission on Human Rights representatives in the

Pasay City jail, no traces could be found of his alleged torture. The main problem was that the identities of the persons who had allegedly tortured him were still unknown. Until new developments occurred which would lead to the identities of the alleged perpetrators, further investigation was being put on hold. The Commission further added that the Medical Action Group, which claimed that Mr. Olite has been subjected to various forms of torture, did not submit to the Commission any evidence of such torture.

125. On 18 July 1989 the Special Rapporteur addressed a letter to the Government of the Philippines referring to the case of Hilario Bustamante, mentioned in paragraphs 73 and 76 of his report to the Commission on Human Rights at its forty-fifth session (E/CN.4/1989/15). The Special Rapporteur transmitted further information he had received on that case, alleging that during the course of the investigations referred to in the Government's reply, Mr. Bustamante had numerous death threats, as a result of which he dropped the complaint he had lodged, and was forced to leave the country temporarily. It was further reported that an investigation by the National Bureau of Investigation had established that a member of the Presidential Security Group had been involved in the abduction of Mr. Bustamante.

126. On 29 September 1989 the Government of the Philippines transmitted to the Special Rapporteur a report dated 5 July 1989 by the Director of the Philippine National Bureau of Investigation. According to that report one of the alleged perpetrators of the murder of Reynaldo Francisco and the frustrated murder of Hilario Bustamante has recently been identified. The man was at present in custody, and two other persons identified as Ambagay's companions were also to be taken into custody; but the return to the country of Bustamante was indispensable in order to identify the alleged perpetrator and his companions for the filing of charges. Arrangements had been made with the Secretary of the Free Legal Assistance Group (FLAG), which provided legal assistance for Bustamante. The Government added that, according to the latest information, Mr. Bustamante had fled to Holland and was presently engaged in propaganda against the Philippine Government. On 22 November 1989 the Government informed the Special Rapporteur that the case was before the office of Fiscal Rogelio de León, Caloocan City, and that the initial hearing had taken place on 3 October 1989.

127. On 12 September 1989 the Special Rapporteur sent an urgent appeal to the Government of the Philippines concerning the cases of Charles Reyes, Virgilio Bacolod, Precila Bucio, Luther Candido, Mario Ty, Reynante Roca, Daniel Elumba, Anna Altarejos, Ariel Castillo, Rolando Manangat, Cleotilde Binabayo, Santiago Ampatin, Herminio Maano, Edgardo Duce, Virgilio Tesoro, Ariel Sarto, Victorino Aquino, Jose Pepe Laquer, Adriano Paulino, Roger Manilag, Alejandro Delgado Jr., Joven Lim, Gerardo Lambuson, Arsenio Elumba, and Magdalena Gustilo. It was reported that these persons had been arrested without a warrant on 27 July 1989 in the southern metro Manila area during a mass arrest conducted by the CAPCOM (Capital Regional Command), and that they had been held since that date without charge at the R2 CAPCOM Headquarters Camp, Bagong Diwa, Bicutan. It was alleged that while in detention these persons have been subjected to various kinds of torture and ill-treatment in order to make them confess to membership in the NPA (New People's Army).

Romania

128. On 18 July 1989 the Special Rapporteur addressed a letter to the Romanian Government transmitting information on the following cases brought to his attention:

(a) Mrs. Doina Cornea, lecturer at the University of Cluj was reportedly severely beaten after being arrested by the police in October 1988. Mrs. Cornea was allegedly savagely beaten again and kicked by security agents in front of her house in Cluj, on 18 May 1989. Mrs. Cornea was then examined by a doctor, who found 17 haematomas and other injuries, and possibly a fractured rib;

(b) Mr. Nestor Popescu is said to have been kept at the Poiana-Mare psychiatric hospital, in the Department of Dolj, since 2 November 1989. Mr. Popescu was forced to undergo treatment with neuraleptic medicaments administered in strong doses. According to the information received, Mr. Popescu was declared healthy by a medical commission, but a court in Craiova none the less decided on 15 July 1988 that he should be kept in the hospital.

129. On 2 October 1989 the Special Rapporteur addressed a letter to the Romanian Government transmitting information that some people reportedly received ill-treatment while in detention, after being apprehended when they were trying to cross the Hungarian or the Yugoslav border illegally. The following cases were reported:

(a) Adrian Staicu and Emilia Popescu, both aged 34, from Bucharest, were arrested by the Romanian authorities on 15 May 1988 after slipping into Hungary illegally on 7 May 1988. Both of them were badly beaten up in prison in Oradea before being tried;

(b) Vasilica Buta a 26-year-old architect from Bucharest, slipped into Hungary illegally on 21 June 1988 and returned to Romania on the same day. She was badly beaten up by a Romanian frontier guard before being taken to the Oradea prison;

(c) Ionel Radu, from Timisoara, was apprehended while he was trying to cross the Yugoslav border illegally. Frontier guards arrested him and beat him up and set a dog on him, causing serious injuries to the face.

Saudi Arabia

130. On 10 July 1989 the Special Rapporteur sent an urgent appeal to the Government of Saudi Arabia concerning information alleging that nine people detained in the Mabahith Al-Ama prison in Al-Dammam were being subjected to torture and ill-treatment. Their names, and details about the date and place of arrest, were reported as follows: Malik Maki Al-Khuwaldi, aged 23, arrested on 15 June 1989 in Safwa in the eastern province; Sayyid Tahir Al-Shimimy, aged 30; Sheikh Ali Abdul Karim Al-Awa, aged 28; Sayyid Zaki Sayyid Shuber, aged 26; and Jafar Baqer Al-Nimr, aged 30; all four arrested on 15 June 1989 in Al-Awamiyya, in the eastern province; Abd Al-Aziz Al-Farisi, aged 23, arrested on 17 June 1989 at King Saud University in Riyadh; Malik Al-Ziwari, arrested during the first half of June 1989 in Sanabis; Adam Ali Al-Uqaili, aged 20, arrested on 14 June 1989 at Hudaitha check-point on the

Saudi-Jordanian frontier. It was alleged that torture was being systematically practised against detainees in the Mabahith Al-Ama prison in Al-Dammam, particularly during their first week of detention.

Somalia

131. On 26 January 1989 the Special Rapporteur sent an urgent appeal to the Government of Somalia concerning information alleging that Mr. Abukar Hassan Yare, arrested on or about 6 January 1989 for being in possession of Amnesty International material, was believed to be held in the Regional National Security Service headquarters in Mogadishu. It was alleged that he was detained incommunicado without being charged and that he may be subjected to torture or ill-treatment in custody.

South Africa

132. On 5 July 1989 the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning information alleging that at least 12 school students under the age of 18 were being held without charge under State of Emergency Regulations. Their names, ages and places of residence were reported as follows: Philip Khanvile, 16, Pietermaritzburg; Petrus Labasi, 16, Soweto; Jacob Mabilo, 16, Soweto; Isaac Matsipe, 16, Soweto; Thokozami Mchunu, 17, Pietermaritzburg; April Mohau, 17, Potchefstroom; Sipho Mngomezulu, 17, Pietermaritzburg; Marcus Murubani, 17, Soweto; Basil Ntungane, 17, Cape Town; Christopher Theletsani, 16, Soweto; Aubrey Sipho Zuma, 16, Pietermaritzburg; Bafana Zwane, 16, Soweto. In addition, five students aged 16 and 17 from Soweto, and four of the same age from Pietermaritzburg, Natal, were also being held.

133. It was reported that between 80 and 90 per cent of children detained under State of Emergency Regulations over the past five years had alleged having been tortured in detention. It was further reported that at least nine youths, aged between 13 and 20, had died in police custody between 1984 and early 1988.

134. On 27 September 1989 the Government of South Africa informed the Special Rapporteur that the 12 juveniles had indeed been detained at that time under the State of Emergency arising from violence perpetrated in the Pietermaritzburg area. They had subsequently been released. The South African Ministry of Law and Order rejected allegations contained in the second part of the appeal as false and malicious. It was prepared to investigate any substantiated allegations of that nature, but no facts had been produced by anyone alleging such torture and deaths.

135. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of South Africa transmitting information concerning a 21-year-old student named Exodus Gugulethu Nyakane, of Wattville, who appeared in court in March 1989 in connection with the inquest into the death in custody of student leader Caiphus Nyoka. Mr. Nyakane made an affidavit in which he alleged that, following the killing of Caiphus Nyoka, he was taken, together with two other students named Elson and Excellent, to the Daveyton police station, where he was tortured by a white policeman. The torture consisted of burning hair at the back of his head and pouring boiling water down his back. Torture and ill-treatment reportedly continued the next day when Mr. Nyakane was allegedly shut in a locker and subjected to tear-gas fumes which almost suffocated him.

Later, as he was being interrogated about fellow students, his head and face were covered with a cloth and electric shocks were applied to various parts of his body. At the same time, the cloth that covered his face was tightened around his neck and he was badly beaten in the face. Mr. Nyakane reportedly also witnessed another student, Daniel Ntsoseng, being put into a locker, while appearing to be in extreme pain.

136. On 22 August 1989 the Special Rapporteur sent an urgent appeal to the Government of South Africa concerning information alleging that Reverend Zwo Calvin Nevhutalu, a Lutheran pastor aged 29, had been arrested on 15 August 1989 by members of the South African Police led by a warrant officer, whose name was transmitted to the Government, in Louis Trichardt, Northern Transvaal. Reverend Nevhutalu's present whereabouts were reportedly not known and according to the source he might be held by the South African Police or by the security forces of Venda Homeland, where his home was located. Fears have been expressed that he might be subjected to torture or ill-treatment while in custody, in view of reports of torture and ill-treatment of prisoners held in Venda Homeland in the past few years.

137. On 27 November 1989 the Permanent Mission of South Africa to the United Nations Office at Geneva informed the Special Rapporteur that, according to information made available by the Public Relations Division of the South African Police, as of 13 September 1989, Reverend Nevhutalu had not been arrested by either the South African Police or the Venda Police. There was, however, a warrant out for his arrest.

Spain

138. On 14 November 1989 the Special Rapporteur sent a letter to the Government of Spain transmitting information that Mr. Fernando Egileor Ituarte was picked up by members of the police force in Bilbao on 14 December 1988, after a general strike in the city. Mr. Egileor said he was walking home and, at approximately 9.45 p.m. a police car drew up alongside him and five uniformed policemen got out. When he tried to escape they used their clubs to beat him on his hands and body. It was reported that medical certificates show Mr. Egileor suffered serious injuries on the scalp which called for several stitches. He also had injuries on his left hand, his ribs, right arm and shoulder. In addition, according to the information, his left hand needed to be operated on. It was also reported that Mr. Egileor laid a complaint with the appropriate court in Bilbao, but has still not received any information on the inquiries into his complaint. According to other information received, Mr. José Askasibar Aperribai was ill-treated and tortured by members of the Civil Guard on 4 October 1987. Mr. Askasibar was expelled from France on that date, handed over to the Civil Guard at the border and held under the anti-terrorist law and taken to the Civil Guard barracks in Intxaurrondo, San Sebastián. Mr. Askasibar stated that, while he was being held at Intxaurrondo, a hood was placed over his head and he was beaten and threatened and tortured with electrical discharges on his shoulders and testicles and his head was held down in a bath full of water (a practice known as the "bathtub") until he lost consciousness. According to the forensic surgeon who examined him while he was in detention, Mr. Askasibar had injuries on both wrists. After being taken to the prison, he had to be treated for obstruction in the bronchial tubes, a characteristic problem for persons who have been subjected to the "bathtub" torture.

Sri Lanka

139. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of Sri Lanka transmitting information alleging that the practice of torture of prisoners continued to be widespread in many parts of the country. Torture was allegedly inflicted on prisoners while they were being kept incommunicado for long periods of time, both by the security forces operating in the south of the country and by the Indian Peace keeping Force (IPKF) operating in the northeast. There were several cases of death of detainees, allegedly as a result of torture. According to the reports, the methods of torture used by the Sri Lanka security forces included beating on sensitive parts of the body, hanging by the thumbs and other forms of suspension and forcing chili powder into the anus, the penis and the mouth. The following cases of alleged torture by members of the Sri Lanka security forces were reported:

(a) Dr. Athula Sumathipala, a doctor at Ward Place Private Hospital, Colombo, was abducted on 19 July 1988 and presumably taken to Welikade police station, where he was allegedly tortured during the first few days of his detention. It was reported that a medical examination conducted on the order of the Supreme Court found evidence to support the alleged torture;

(b) Gamaralalage Samanthilaka, a 16-year-old girl, was taken into custody on or about 9 March 1988, following the arrest of her two brothers. She was held at Gampaha police station, where she was allegedly tortured in front of one of her brothers, Sugath Kamalasiri, and was forced to watch him being tortured. The purpose of her torture was apparently to force her to give information about the activities of her two brothers and some of their friends. The girl was reportedly released on 11 February 1989. She filed a complaint alleging that she had been tortured;

(c) Madduma Arachchilage don Preethisiri, a student at the University of Colombo, was arrested on 2 February 1988 at Mahawa by police officers from Mahawa, Gokarella and Kurunegala police stations. On 10 March 1988 relatives were able to visit him at Kurunegala police station. He bore evident marks of torture and told his relatives that he had been assaulted by the police at Gokarella and Kurunegala.

140. It was further reported that detainees were frequently beaten by members of the IPKF and that electric shock treatment was often inflicted on prisoners during interrogation. One such case was that of Nadarasa Muraliharan, aged 19, a day-labourer, of Bharathy Veethy, Kamparmalai, who was arrested on 15 February 1989 by the IPKF, taken to their camp at Udupiddy and allegedly subjected to torture when he denied involvement in any anti-Government activities. Torture allegedly included beating, pouring water through the nose and application of electric shocks to the genitals. He was eventually released after it was established that he had not been involved in any subversive activities. On 16 February 1989 he had to be admitted to Valvettiturai hospital with multiple contusions and a fractured right leg, and in spite of prolonged treatment in government hospitals he was now allegedly permanently disabled as a result of the torture.

141. According to the information received, the following persons had died in custody, allegedly as a result of torture:

(a) Wijedasa Liyanarachchi, a lawyer, died in Colombo General Hospital on 2 September 1988 after having been arrested on 25 August 1988; it was also reported that three police officers were arrested and prosecuted in connection with his death;

(b) Kulasekeram Sunthareswaran, aged 20, from Chavakachcheri, Jaffna district, was arrested on 22 December 1987. On 5 January 1988 his dead body was identified by a relative at Kannapiddy cemetery;

(c) Suppan Nadarajah, aged 38, from Tellipalai, was taken into IPKF custody on 11 June 1988 and died on the same day. According to eye-witnesses he died as a result of torture, and not from heart failure, as was affirmed in a statement issued by the IPKF;

(d) Rayappu Jesurajah was arrested on 12 July 1988 by IPKF personnel from Sampur. He died on 18 July 1988, allegedly after being tortured;

(e) Jude Zacharias Chandrakumar, aged 17, from Jaffna, was arrested on 26 November 1988 and taken to IPKF camp at Jaffna railway station. His dead body was found the next day bearing gunshot injuries and marks of torture.

142. On 18 December 1989 the Permanent Mission of Sri Lanka to the United Nations Office at Geneva transmitted the following information to the Special Rapporteur in response to his letter of 19 July 1989:

> "(a) Dr. Athula Sumathipala. The case concerning the arrest of Dr. Sumathipala, including the allegations of torture, was examined by the Supreme Court of Sri Lanka, consequent to a fundamental rights application filed in the Supreme Court on behalf of Dr. Sumathipala. subsequently Dr. Sumathipala withdrew his allegations.
>
> "(b) Ms. G. Samanthilaka. Authorities inform that this case has not yet been taken up. Information will be made available once investigations have been completed.
>
> "(c) Mr. W. Liyanarachchi. After investigations by the authorities concerning the death of Mr. Liyanarachchi, three police officers have been charged in the High Court of Colombo. This case was scheduled for hearing in the High Court in early December 1989 and more information will be forwarded once the case is concluded by the judicial authorities."

143. On 2 October 1989 the Special Rapporteur addressed a letter to the Government of Sri Lanka transmitting information alleging that two of the six Tamil men who had been forcibly returned from the United Kingdom to Sri Lanka in February 1988 had been arrested following their return, on suspicion of having links with the Liberation Tigers of Tamil Eelam movement (LTTE), and were allegedly tortured. They were named as Vythialingam Skandarajah and Navaratnasingam Vathanan. Mr. Skandarajah was reportedly detained by Indian Peace-keeping Force (IPKF) personnel on his way to Jaffna. During the interrogation he was badly beaten and clubbed on various parts of his body. He was kept in detention for over 10 weeks and was then released.
Mr. Vathanan was detained for one night in May 1988 at Pettah police station in Colombo. He was questioned about his links with the LTTE, and was beaten and kicked by three Sinhalese constables. Mr. Vathanan suffered severe stomach pains, allegedly as a result of the beating he had received, and had

to be admitted to hospital. In addition to the aforementioned, it was reported that a number of persons from the Moneragala district, had been arrested by soldiers in the Kataragama Army Camp and were ill treated, or brutally assaulted, upon their arrest or while in detention. All were reportedly being held at the Moneragala Army Camp. The names of such persons, places of residence and dates of arrest were reported as follows:

H.A. Dhanapala of Galbotawa Road, Waguruwela, Buttala;

W.R.K. Ratnayaka of Galbotawa Road, Waguruwela, Buttala;

Chandrasiri Kandeyaya of Galbotawa Road, Waguruwela, Buttala;

A.M. Wijesundara of Temple Road, Waguruwela, Buttala;

D.M. Karunaratne, of Menadana, Waguruwela, Buttala, detained on 1 January 1989;

K.M. Jayasundera;

J. Sunil, of 15th mile post, Kataragama Road, Buttala, arrested on 24 December 1988. He was reportedly passing blood with his urine, allegedly as a result of the ill-treatment to which he had been subjected;

Herath Banda, of 15th mile post, Kataragama Road, Buttala;

Gunapala, of 16th mile post, Kataragama Road, Buttala, arrested on 24 December 1988;

Premaratna, of 18th mile post, Kataragama Road, Buttala, arrested on 1 January 1989;

Gunatilaka, son of Okkampitiya, arrested on 7 December 1988;

Wickramasingha, of 2nd mile post, arrested on 11 December 1988.

It was further reported that Mr. Nadarajah Kamalanathan, a teacher at St. John's College, Jaffna, was arrested by the Indian Peace-keeping Force (IPKF) on 17 April 1988, for unkown reasons, and was released on 22 April 1988. In an affadavit submitted by him, he alleged that during his detention he had been badly tortured by members of the IPKF, and that as a result of his injuries he had been hospitalized for two months. Mr. Kamalanathan attached to his affidavit a medical certificate issued by the Governmental Hospital in Jaffna which appeared to corroborate his allegations.

144. On 18 December 1989 the Permanent Mission of Sri Lanka to the United Nations Office at Geneva also transmitted information to the Special Rapporteur concerning the Sri Lankan Tamils who had been "forcibly returned" from the United Kingdom. The authorities in Sri Lanka had confirmed that they had been questioned by the Criminal Investigation Department upon their arrival in Sri Lanka. They had been released after questioning. It was stated that these persons had been questioned in order to ascertain whether they had connections with any illegal activities. The names of those questioned were the following: (1) Saravanamuthu Sivakumaran, (2) Navaratnasingham Vathanan, (3) Vinasathamby Rasalingam, (4) Vythialingam Skandarajah, (5) Nadarajah Vilvarajah. The police authorities had confirmed

that there was nothing adverse to report on these persons and that they had not been harassed or ill-treated by the Sri Lankan Security Forces or the Criminal Investigation Department. With regard to the other cases referred to in the letter of the Special Rapporteur dated 2 October 1989, it was stated that the information had been referred to the relevant authorities for investigation. However, considering the general nature of the information given, and in view of the unsettled security situation in the country, more time would be necessary to conduct investigations and ascertain facts. Information would be made available once inquiries had been completed.

Sudan

145. On 10 November 1989 the Special Rapporteur sent an urgent appeal to the Government of Sudan concerning information alleging that Buthina Dowka, aged 32, a nurse working at Khartoum hospital, was arrested on 4 September 1989 and detained in Omdurman prison. It was reported that her physical and mental health had, since her arrest, been seriously affected by her conditions of detention and she was believed to have suffered a mental breakdown. She had allegedly been beaten on several occasions and was being kept constantly tied up with ropes. She allegedly received neither medical treatment nor any visits from her family or friends. It was reported that she had not been formally charged with any offence.

146. On 30 November 1989 the Permanent Mission of Sudan to the United Nations Office at Geneva communicated to the Special Rapporteur that it had been informed by the office of the Attorney General of Sudan that Buthina Dowka had been released on 6 November 1989.

Turkey

147. On 9 January 1989 the Government of Turkey addressed a letter to the Special Rapporteur replying to an urgent appeal sent by him on 2 December 1988 (see E/CN.4/1989/15, para. 152). The Turkish Government affirmed that the four persons concerned had been arrested on charges of membership of or affiliation with terrorist groups. The allegation of ill-treatment had been looked into and the investigating authorities concluded that none of the persons concerned had been mistreated during their interrogation or detention. Those findings were reportedly confirmed by medical reports.

148. On 26 January 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning information alleging that seven persons from Batman district, linked with the Petrol-Is trade union or with the Social Democratic Populist Party (SDP), were being held in incommunicado detention at either Atman police station or Siirt police headquarters, for alleged terrorist activities. Their names were reported as follows: Ahmet Timurtas; Mehmet Kara; Sukeg Erinci; Mehmet Sirin Aytekin; Besir Kurt; and Sukru Gok. It was reported that some of those held incommunicado had been detained previously during the past two years and had alleged having been subjected to torture. Members of the SDP had also alleged that they had been subjected to torture and ill-treatment in Siirt police headquarters. It was further alleged that Mustafa Depren, aged 40, a teacher, his brother Suleyman Depren and Gazi Eke had been detained in Gaziantep between 12 and 15 January 1989 and were believed to be held at Gaziantep police headquarters. No reasons were given for the detention. It was feared that they were being interrogated under torture.

149. On 13 February 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning information alleging that four men, named as Izzet Kuvanlikli, Tahsin Ozer, Karim Yildirim and Yasar Celik, were detained in Istanbul on 30 January 1989 and had since then been held incommunicado in police detention. The reason for their arrest was not reported. It was also alleged that three other persons, Mehmet Ozkan, his wife Songül Ozkan and his brother Bektas Ozkan had been detained in Istanbul, together with two other persons, on 5 February 1989. Reportedly two were released on 8 February and the three named above continued to be held at Istanbul police headquarters without access to relatives or lawyers. Songül Ozkan was allegedly seen at the police headquarters unable to speak or move her arms. It was further reported that a fourth person, named as Ali Durmaz, had also been detained in connection with that case.

150. On 5 April 1989 the Government informed the Special Rapporteur that Messrs. Mehmet Ozkan, Bektas Ozkan and Ali Durmaz and Mrs. Songül Ozkan had been taken into custody on charges of affiliation to and participation in illegal activities of an outlawed organization. Following the investigation made by competent authorities, Messrs. Bektas Ozkan and Ali Durmaz had been released on 16 February 1989 by the public prosecutor for reasons of insufficient evidence to prove their participation in the activities of the said organization. Mr. Mehmet Ozkan and Mrs. Songül Ozkan had been arrested on the same date by decision of the competent court. The relevant authorities had thoroughly examined and found baseless the allegations of torture concerning the above-mentioned persons. The medical reports confirmed that none of these persons had been subjected to any kind of ill-treatment. Messrs. Izzet Kovankli, Tahsin Ozer, Kazim Yildirim and Yasar Celik had been apprehended on charges of affiliation to and participation in illegal activities of the outlawed "United Communist Party of Turkey". Following the investigation made by the competent authorities, Messrs. Izzet Kovankli and Yasar Celik had been released. Messrs. Tahsin Ozer and Kazim Yildirim had been arrested by the court decision and a public lawsuit had been initiated against them on 14 February 1989. On 30 June 1989 the Government informed the Special Rapporteur that Kazim Yildirim and Tahsin Ozer had been released on 5 April 1989, pending trial. Allegations of torture concerning these persons had been thoroughly examined and found baseless by the competent authorities. The medical reports established that these persons had not been subjected to any kind of ill-treatment.

151. On 9 March 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning the case of Kemal Isiktas and Ali Meriç, who were detained on 22 February 1989 by police outside Ankara State Security Court and taken to Ankara police headquarters. Kemal Isiktas was reported to be suffering from chronic kidney and liver diseases. It was also alleged that eight persons - five men named as Hasan Hacioglu, Mehmet Nuri Ozmen, Timsal Sackan, Bercan Batur and Ihsan Pekel, and three women, named as Gurdal Aksoy, Nadire Gultas and Nuray Ariduru - were arrested on 23 February 1989, immediately after being acquitted by the Ankara State Security Court of charges of belonging to the illegal Kurdistan Workers' Party. They were allegedly beaten in the vehicle which took them back to Ankara closed prison. It was reported that they had been held incommunicado since 23 February 1989 and were being interrogated at Ankara police headquarters. It was further alleged that five prisoners in Ward 4 in Ankara closed prison, named as Cuneyt Kafkas, Abdullah Demir, Huseyin Poyraz, Hasan Huseyin Kaner and Mehmet Bayrak, were seriously injured on 1 March 1989 when special units of the military

allegedly beat prisoners held in that ward. It was alleged that the troops had indiscriminately beaten the prisoners after the latter refused to leave the ward in order to be counted, and that, as a result of the beating, 57 prisoners were injured.

152. On 5 and 18 April 1989 the Governement informed the Special Rapporteur that Kemal Isiktas, who was described as an agitator and organizer of an unauthorized meeting, had been taken into custody on 22 February 1989, on charges of having violated Act No. 2911 on Public Meetings and Demonstrations. He had been released on 24 February 1989. According to medical reports duly prepared by physicians and an investigation made by the relevant authorities, Mr. Isiktas had not been subjected to any kind of mistreatment during interrogation and detention. No legal action had been taken against Mr. Ali Meriç, the other person mentioned in that context. With regard to Hasan Hacioglu, Mehmet Nuri Ozmen, Timsal Sackan, Bercan Batur, Ihsan Tekel, Gürdal Aksoy, Nadire Gültas and Nuray Ariduru, on 23 February 1989 they had been taken to the court for the final hearing of the case concerning participation in the activities of an illegal terrorist organization called "PKK". During the hearing they had shouted slogans against the territorial integrity of the State and had offended the court. Although they had been acquitted by the court, the eight persons in question pursued their illegal action even in the vehicle taking them back to the prison for the completion of their release formalities. Once these formalities were completed, they had been taken into custody on the basis of the warrant of apprehension issued by the Public Prosecutor because of their action during and after the court hearing. Allegations of ill-treatment concerning these persons had been thoroughly examined and found baseless by competent authorities. The medical reports established that they had not been subjected to any kind of ill-treatment. The Government further informed the Special Rapporteur that on 1 March 1989, some of the inmates in Ankara closed prison refused to be counted and forcefully resisted the gendarmerie officials (attached to the Ministry of the Interior and in charge of maintaining order and security in the prison). As a result of physical confrontation between the prisoners and the officials, some inmates (Cüneyt Kafkas, Abdullah Demir, Hüseyin Poyraz, Hasan Hüseyin Kaner and Mehmet Bayrak) had been injured and taken to hospital for necessary treatment. All of them had been cured and quickly recovered. The medical reports indicated that none of the injuries were serious. An official investigation into that incident was under way. Once it was completed, the public prosecutor would take appropriate legal action against all those who were responsible, and it was out of the question that any official who had mistreated prisoners would remain unpunished.

153. On 16 March 1989 the Government of Turkey addressed a letter to the Special Rapporteur containing background information on allegations that 239 people had, in recent months, died as a result of torture or ill-treatment while in police custody. The examination of 146 cases had already been concluded and the results were the following: 10 of the people listed as having been tortured to death while in custody were actually alive and well. They included five persons who had never been taken into custody. Thirty-four people had reportedly committed suicide; 42 had died as a result of illness or other natural causes, and this had been verified by official doctors' reports or documents issued by authorized health authorities; 22 had been shot dead while attempting to escape from custody or having engaged in clashes with security officers; one had been the victim of an ordinary murder case, and three had died as a result of a hunger strike in prison. Thirty-two

cases of torture allegations which were found suspicious had been referred to the judicial authorities. Of these, 14 had resulted in the conviction of officials charged with torture or ill-treatment and 4 in the aquittal of those concerned due to lack of evidence; in 12 cases the trials were continuing, and 2 cases were still in the phase of investigation. Fifty-seven people had been convicted of torture or ill-treatment in various cases, and some had received penalties of 8 to 10 years.

154. On 19 April 1989 the Special Rapporteur addressed a letter to the Government of Turkey concerning the case of Mr. Ali Kent, currently held in Nigde closed prison in Ankara. Mr. Kent was reportedly arrested in September 1986 or thereabouts by the organization known as MIT (National Intelligence Organization), after he lodged a complaint against the son of the former Chief of Staff of Turkey for having allegedly failed to return a rented car to Mr. Kent's agency. He was allegedly tortured for 29 days until he agreed to sign a confession to the charge of treason. He was reportedly put on trial on four charges. The trial concerning three of these charges was held at the State Security Court, which found him not guilty, and the trial concerning a fourth charge was held before a military court of the General Staff. There he claimed that his confession had been extracted under torture. But the Court rejected his claim after the prosecutor of the military court - who had allegedly himself taken part in acts of torture - pointed out the importance of having a written confession supporting the charge of engagement in treasonable activities prejudicial to the national defence. The Special Rapporteur received a copy of a medical report issued on 17 October 1986, following an examination of Mr. Ali Kent at the Gülhane Military Hospital in Ankara. According to the report, the patient was brought on a stretcher, was unable to walk and had injuries in the forehead, left wrist, left temporal occipital, ankles, feet and parts of the soles of the feet.

155. On 8 May 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning information alleging that three residents of Izmir, named as Arif Akyurtlakci, member of the Izmir branch of the Human Rights Association, Ali Korkmaz and Ugur Demirei, both students, were detained during the last week of April and were being held incommunicado at Izmir police headquarters. According to several persons who had been detained on 1 May and released the following day, the 3 above-mentioned persons and another 10 detainees whose names were not given were being interrogated under torture, which included various forms of suspension, the squeezing of testicles and electric shocks.

156. On 5 June 1989 the Government informed the Special Rapporteur that allegations of ill-treatment concerning the three above-mentioned persons had been examined and found baseless by competent authorities. Medical reports established that they had not been subjected to any kind of ill-treatment during interrogation and detention.

157. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of Turkey transmitting information alleging that during the week preceding May Day and the following week hundreds of people were detained in many towns all over Turkey, apparently for activity on behalf of illegal organizations and, in one case, for involvement in two shooting incidents in December 1988 and April 1989. Some of those detained who were later released alleged that they had been interrogated under torture in an attempt to extract

confessions, and that others who were still in detention were also being interrogated under torture, which included beatings, deprivation of sleep, electric shocks and various forms of suspension. The cases of the following persons were reported to the Special Rapporteur: Haydar Bozdag, Müslim Tataroglu, Kutay Meriç, Pervil Keçeci, Ibrahim Güler, Kamile Demirel, Leman Oral, Metin Ugur Tepe, Kemal Dogan, Yücel Oren, Hasan Keskin, Süreyya Keskin, Hasan Adigüzel Cekiç, Hakki Vuranok, Veli Oztürk, Mehmet Cemal Dogan, Ramazan Mustafa, Ali Naci Kör, Güllu Düzenli, Dogan Elmali, Selami Mazlum. They were reportedly detained in Ankara during the first days of May 1989, together with several other persons.

158. On 25 July 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning information alleging that several persons from the villages of Balveren, Dagakonak and Ara, near Sirnak in the province of Siirt, including Mustafa Sidar, Ibrahim Bayik, Ibrahim Eren, Mustafa Bayram, Ismael Bayram and Yasin Islek, were detained on or about 12 July 1989 and taken to the command of the 23rd border brigade in Sirnak for interrogation in connection with alleged support of the illegal Kurdistan Workers' Party. These persons were reportedly being held incommunicado, and fears have been expressed that they could be subjected to torture.

159. On 31 August 1989 the Government of Turkey informed the Special Rapporteur that out of the six persons mentioned in the urgent appeal of 25 July 1989 three (Mustafa Sidar, Yasin Islek and Ibrahim Buyik) were currently under arrest in connection with the murder of five persons; Ibrahim Eren had been detained on 15 July 1989 and was released on 17 July 1989; Mustafa Bayram and Ismail Bayram had never been taken into custody nor interrogated. The competent authorities had thoroughly examined the situation of the above-mentioned detainees and had established that they had not been subjected to any form of ill-treatment. These findings were reportedly confirmed by medical reports.

160. On 2 October 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning the case of Ahmet Kardam, aged 44, and Seref Yildiz, a trade unionist. It was reported that both were members of the Central Committee of the illegal Turkish United Communist Party who, together with other Turkish exiles, returned to Turkey on 22 September 1989. As they arrived in Turkey both were reportedly detained and taken to Ankara police headquarters where they have since been held incomunicado. It was alleged that they were being interrogated under torture. It may be noted that the source which provided the information for the above-mentioned appeal subsequently reported that the two persons concerned had been formally charged, and that they had afterwards stated that they had not been subjected to ill-treatment while in detention.

161. On 14 November 1989 the Special Rapporteur addressed a letter to the Government of Turkey concerning information alleging that many Kurdish prisoners held in Turkish prisons on 28 June 1989 went on hunger strike to protest against their detention conditions. On 31 July 1989 the Minister of Justice reportedly decided to transfer striking prisoners from the Eskisehir prison to the prisons of Aydin and Nazilli. It was alleged that the transfer of the prisoners was carried out in armoured cars which travelled for over 10 hours with almost no fresh air or ventilation. When prisoners protested they were allegedly beaten by guards. Two of the prisoners were said to have died on 2 August 1989, just before arriving or on arrival at the Aydin

prison. They were named as Husein Hüsnü Eroglu and Mehmet Yalçinkaya. It was also alleged that several prisoners were suffering serious injuries after being beaten: Adibelli Havi had a broken spine, Aktas Alaattin had many bruises on the head and Sinem Serif was urinating and defecating blood. Kilic Mehmet, Ocet Sedat and Gungor Mustafa were also suffering from various injuries, allegedly as a result of beating. It was also reported that following the killing of five people at the beginning of July 1989 near Balveren village, Sirnak district in Siirt province, several villagers were detained and interrogated at the command of the 23rd border brigade in Sirnak. One of them, Salih Zeyrek, aged 19, later alleged that he and the other villagers had been tortured over 10 days. He was allegedly put into a barrel and held there for 24 hours with the lid closed. The objective of the alleged torture was to extract a confession about the killings. Another of the villagers detained on that occasion, Mustafa Sidar, was reportedly taken back to the village after 12 days of detention and was unable to walk on his own. Mustafa Sidar had allegedly confessed under torture to being in possession of a weapon. It was further reported that Ahmet Contay, a 25-year-old Turkish student living in Germany, was reportedly detained on or about 17 September 1989 in Kapikule, as he was about to leave Turkey. He was transferred first to Edirne and later to Istanbul and Ankara for interrogation, and was released without charge on 29 September 1989. During his detention he was allegedly beaten and subjected to various forms of torture, including suspension and electric shocks. After his release he entered hospital because of abdominal pain. Finally, it was reported that several students who were arrested before 13 September 1989 and later released were allegedly forced to admit that they had taken part in illegal political activity. Eyuphan Basar and Yusuf Ali Yildiz had reportedly made formal depositions after their release, alleging that they had been given electric shocks, suspended by their wrists, forced into a car tyre and sprayed with a pressurized water-jet. Erhan Karaca and Yusuf Ali Yilmaz were also allegedly tortured.

162. On 11 December 1989 the Special Rapporteur sent an urgent appeal to the Government of Turkey concerning eight persons who were detained on or around 27 November 1989 in Istanbul and have since been held incommunicado, reportedly at the political branch of the Istanbul police headquarters. Their names were reported as follows: Bulent Solgun, Durmus Erdemir, Ibrahim Tuzun, Ibrahim Gundogdu, Halit Lale, Gulay Yuan, Musa Erdogan, Hasan Demiralp. Another person, Nail Cavus, the editing director of a political publication, was reportedly arrested in Istanbul on 5 December 1989 and was believed to be under interrogation by the political police in connection with the aforementioned arrests. Fears have been expressed that these persons may be interrogated under torture.

Uganda

163. On 18 July 1989 the Special Rapporteur addressed a letter to the Government of Uganda transmitting information alleging that, in spite of a significant improvement in respect for human rights achieved by the Government since the beginning of 1986, the practice of torture had not been totally eliminated. Cases of torture were reported in particular in those areas where security forces were struggling with rebel movements. The North was the region where most cases of torture allegedly occurred, but some cases were also reported in Kampala, both in NRA (National Resistance Army) barracks and in military intelligence and Internal Security Organization headquarters.

In 1988 several cases of torture were alleged. They concerned prisoners held and interrogated by the Internal Security Organization (ISO) or military intelligence and were allegedly carried out in the ISO headquarters in the former Organization of African Unity Bureau of Languages building in Kampala and in Basiima House, the military intelligence headquarters, near Lubiri barracks. In March 1988 Joseph Lusigazi was reportedly arrested in Kampala and subjected to the torture method known as kandooya (tying the victim's arms together above the elbows, behind the back, a practice which often results in damage to the nerves, paralysis - sometimes indefinitely - or gangrene, leading to amputation of the arm). He was later allegedly killed at Basiima House by having a nail driven into his head. In March 1988 Isaac Segomba was reportedly arrested by the NRA in the Kololo area, near Kampala. He was taken to Lubiri barracks and later to Basiima House. He allegedly died after having a nail hammered into his penis and being stabbed with a knife in the stomach.

Union of Soviet Socialist Republics

164. On 18 July 1989 the Special Rapporteur addressed a letter to the Government of the Union of Soviet Socialist Republics transmitting information alleging that the practice of forcible internment in psychiatric hospitals of political and human rights activists continued to occur in the Soviet Union. The following cases were reported:

(a) Mr. Valentin Vasileyevich Cheban, from Brichany district of the Moldavian Soviet Socialist Republic, was allegedly arrested on 7 April 1989 by members of the militia for trying to organize an electoral meeting. He was later allegedly forcibly admitted to Moldavia Psychiatric Hospital No. 5, where he was said to undergo psychotropic medicine treatment;

(b) Mr. Fedor Petrovich Edamenko, from Belgorod, was allegedly arrested on 15 March 1989 by members of the militia for having organized an electoral meeting on 8 March 1989, and was forcibly admitted to a psychiatric hospital;

(c) Mr. Sergey Kuznetsov, member of the Democratic Union in Sverdlovsk, was allegedly arrested on 11 December 1988 and charged with slander and resisting arrest. He was reportedly held in Butyrski prison in Moscow, where he was allegedly beaten, and subsequently moved to the Sverdlovsk municipal prison. In the course of his detention he was reportedly transferred to the Serbian Institute of Forensic Psychiatry to undergo tests, and was found to be mentally healthy.

165. On 16 October 1987 the Government of the Union of Soviet Socialist Republics transmitted to the Special Rapporteur the reply by the Specialized Medical Care Administration of the Ministry of Health of the USSR, giving the following information:

(a) Valentin Vasilyevich Cheban had been under observation by psychiatrists for chronic mental illness since 1956. He had been repeatedly examined and treated as an in-patient in psychiatric hospitals and the diagnosis was confirmed. His latest admission to a psychiatric hospital, in April 1989, took place with the patient's consent as a result of a worsening of his condition. He had been discharged and was now at home;

(b) Fedor Petrovich Edamenko had been suffering from chronic mental illness since 1972. He had repeatedly undergone treatment in psychiatric hospitals. His last admission to hospital, in March 1989, was due to a deterioration in his mental condition, manifested by an increase in psychotic disorders. He had since been discharged and sent home. The justified nature of the admission to hospital was confirmed by a check made by the Procurator's Office;

(c) Sergei Kuznetsov had been under medical and psychiatric observation for mental illness for a long time. At the end of 1988, by decision of the investigating authorities (upon the institution of criminal proceedings), he was sent to the psychiatric hospital of the town of Sverdlovsk. After examination by forensic psychiatrists, he was found to be of sound mind and was transferred to the detention block for persons under investigation. In May 1989, again by decision of the investigating authorities, he was examined at the V.P. Serbsky All-Union Research Institute of General and Forensic Psychiatry and was again found of sound mind as regards incriminating activity (dissemination of slanderous fabrication). He was then returned to the detention block for persons under investigation.

United Arab Emirates

166. On 3 August 1989 the Special Rapporteur sent an urgent appeal to the Government of the United Arab Emirates concerning information alleging that Mahmud Sulaiman Abdi, a Somali national aged 14, who was being held without charge in Al Wathba prison, outside Abu Dhabi, since 23 December 1987, was subjected to ill-treatment, by receiving 200 cane strokes while in detention.

Yemen

167. On 19 July 1989 the Special Rapporteur addressed a letter to the Government of Yemen transmitting information reporting that three men convicted of theft, named as Muhammad Ahmad al-Hariri, Muhammad Ahmad Abdul al-Washli and Abd al-Wasi Abdullah Salih al-Maqtari, each had their right hand amputated on 24 February 1989. The amputations were reportedly carried out publicly in Maydan al-Tahrir in Sana'a. The three men had reportedly been convicted by courts of first instance. The convictions and sentences had been upheld by the Court of Appeal and the Court of Cassation and ratified by the Supreme Judicial Council.

Yugoslavia

168. On 18 July 1989 the Special Rapporteur addressed a letter to the Government of Yugoslavia transmitting information alleging that several cases of torture and ill-treatment had occurred in Kosovo and Macedonia during the period March-May 1989. Those cases reportedly involved security forces, and in particular police activity, following the widespread demonstrations organized by various ethnic groups. The following cases were reported:

(a) Following an appeal sent on 21 February 1989 to the authorities, 215 intellectuals were allegedly arrested and sent to the prison of Leskovc in Serbia. On the road to that prison, and in the prison itself, they were allegedly brutally beaten and subjected to various forms of torture, including planting of needles under the nails, squeezing of genitals, beating on the soles of the feet and burning the feet with burning paper;

(b) On 3 May 1989 police allegedly rounded up all the young men in the village of Korotishte, Struge region, Macedonia, and tortured them. One of the youths, Bejadin Brava, aged 26, was taken to the Dellogozhde police station and died there, allegedly after being tortured. Police later said that he had committed suicide.

169. On 22 November 1989 the Permanent Mission of Yugoslavia to the United Nations Office at Geneva communicated to the Special Rapporteur information and clarifications provided by the Federal Secretariat of Justice and the Federal Secretariat for Internal Affairs. In the framework of the special measures introduced in the province of Kosovo in March 1989 following the unrest there, compulsory residence (or isolation) was applied to 238 persons, from whom a large quantity of arms and ammunition was seized. Some of these persons were detained in the communal prisons of Vranje, Leskovac and Prokuplje. The following further information was given:

> "On 28 and 29 March 1989, 41 persons were brought to the communal prison of Leskovac. On that occasion cases of the abuse of the official powers and duties were reported. Some of the detainees suffered, as a consequence, from light physical injuries. The official republic organs reacted immediately to these incidents, releasing from duty the responsible senior officials. After an official investigation against 11 officers in the prison of Leskovac, the public prosecutor raised charges against them on the basis of Article 66 of the Criminal Code of the Socialist Republic of Serbia - criminal act of ill-treatment in the performance of duty. The trial is due soon. As far as the alleged death as a consequence of torture of Bejadin Brava is concerned, aged 26, born in Korosiste, Socialist Republic of Macedonia, reportedly detained on 3 May 1989 in the Dellogozhde police station, official records attest to the fact that no person under the name of Bejadin Brava ever existed. However, Ibrahim Beadin, born in 1958, from the village of Korosiste did report to the Dellogozhde police station on 20 and 22 April 1989, upon an official demand aimed at clarification of the circumstances of his involvement in the theft of an army rifle. During the interview Ibrahim confessed to being implicated in the theft, but stated that the rifle had actually been stolen by an acquaintance of his. As he was about to be faced with that other person, Ibrahim, having been left on his own in the room for a moment, jumped out of the window, injuring himself seriously. He was immediately transported to the Medical Centre in Struga and then to the Faculty of Medicine in Skoplje, where he succumbed to the injuries caused by the jump".

Zaire

170. On 7 February 1989 the Special Rapporteur sent an urgent message to the Government of Zaire stating that Mrs. Ehadishimba Matilde, Ekesombo Hélène, Lokanu Ekonga Marie and Tosomba Owale Henriette were reported to have been arrested in April 1988 and were still being held without charge or trial by the Military Intelligence and Action Service (SARM) at its Kinshasa detention centre. According to the information received, these four ladies were raped and tortured and other ill-treatment was inflicted on them.

171. On 9 March 1989 the Special Rapporteur sent an urgent message to the Government of Zaire stating that more than 15 persons, including Mrs. Makake Nsumba and her baby, Messrs. Pierre Nsungululu, Kovula Mukoka Mweme, Joseph Mati, Lyandja Essamu, Mutambayi, Kanambu and Makeng Nlandu were arrested on 17 January 1989 in Binza Ozone by members of SARM. They were then taken to Kinsuka, where they were reportedly tortured. Subsequently, soldiers took these persons to an unknown destination.

Zimbabwe

172. On 8 February 1989 the Government of Zimbabwe addressed a letter to the Special Rapporteur referring to allegations contained in letters transmitted by him on 18 October 1985 and 17 July 1986, regarding four persons who had allegedly been tortured by the security forces. According to the Government, extensive investigations had been instituted and it was established that there was no record to indicate that the four persons concerned - Joseph Mbedzi, Mandubu Zengo, Daylight Komboni and Collen Mhlanga - had ever been arrested by the police. With regard to an allegation, transmitted in the letter dated 18 October 1985, of the kidnapping of 11 persons in Silobela, it was not known who could have perpetrated it and no official complaint had been lodged with competent authorities regarding that matter.

III. VISITS BY THE SPECIAL RAPPORTEUR

A. Visit to Guatemala

1. Introduction

173. The Special Rapporteur visited Guatemala from 18 to 24 September 1989, in response to an invitation extended to him on 31 August 1988 by the Government of that country. During his visit the Special Rapporteur was received by the President of the Republic, Mr. Marco Vinicio Cerezo Arévalo. He was also received by the Minister for Foreign Affairs, Mr. Alfonso Cabrera Hidalgo, and held discussions with the Minister of the Interior, Mr. Roberto Valle Valdizán, the Vice-Minister for Foreign Affairs, Mr. Ariel Ribera, the Vice-Minister of Defence, Brigade General Raúl Molina Bedoya, the President of the Supreme Court of Justice, Mr. Edmundo Vásquez Martínez, the Attorney-General and head of the Public Prosecutor's Office, Mr. Rodolfo Cárdenas Villagrán, the Director General of the National Police, Colonel Giovanni Valerio Cárdenas, the President of the Advisory Commission on Human Rights Matters (COPADEH), Mrs. Ileana del Rosaio Acuña, the President of the Human Rights Commission of Congress, Mr. Héctor Mayora Dawe, and the Vice-Chairman of the Commission, Mr. Víctor Hugo Godoy, and the Deputy Procurator for Human Rights, Mr. Angel Alfredo Figueroa. He also met with the Metropolitan Archbishop, Monsignor Próspero Penados del Barrio.

174. The Special Rapporteur also met with representatives of several non-governmental organizations and other organizations and groups concerned with the situation of human rights in Guatemala. Some of these organizations are based outside the country and, in order to be informed by them of their concerns, the Special Rapporteur held a series of meetings in San José, Costa Rica, on 16 and 17 September 1989. Such meetings were held with representatives of the Asociación Centroamericana de Familiares de Detenidos Desaparecidos (ACAFADE) (Central American Association of Relatives of Disappeared Persons), the Comisión de Derechos Humanos de Guatemala (Human Rights Commission of Guatemala), the Comisión para la Defensa de los Derechos Humanos en Centroamérica (CODEHUCA), the Comité Pro Paz y Justicia - México, and the Unified Representation of the Guatemalan Opposition. In Guatemala, the Special Rapporteur met with representatives of the Grupo de Apoyo Mutuo (Mutual Support Group - GAM) (Mrs. Nineth de García), the Centro de Investigaciones, Estudio y Promoción de Derechos Humanos (CIEPRODH) (Mr. Factor Méndez) and an indigenous population organization, the Consejo de Comunidades Etnicas "Runujel Junam" (Mr. Amilcar Méndez). He also met members of a delegation of the Human Rights Commission of Guatemala (Mrs. Ana Antonia Reyes), who had returned to the country to participate in the "National Dialogue for Reconciliation", members of the Peace Brigades International, and Mr. Sagastuma Gemmell, a United Nations Expert on education in the field of human rights.

175. On 22 September 1989 the Special Rapporteur visited the prison of Pavón (Granja Penal de Pavón). He was briefed by the Director of the prison and the Director-General of the national penitentiary system. The various wings of the prison were visited, including those destroyed in the fire during the prisoners' riot in March 1989 and those built to replace them. The Special Rapporteur visited class-rooms, the clinic and the solitary confinement cells, which were said not to have been used for quite some

time. The Special Rapporteur was able to talk privately with Juan Carlos Tejeda Tórtola, on behalf of whom an urgent appeal had been sent to the Government.

176. The Special Rapporteur wishes to express his sincere appreciation and gratitude to the Guatemalan authorities for the preparation of his visit, and in particular to Mrs. Aracely Phenfunchal and Mr. Luis Alfredo Dardón Gutiérrez of the Ministry of Foreign Affairs, for the efficient and kind way in which they contributed to the organization of the visit.

2. Background and legal and institutional framework

177. The Special Rapporteur's visit to Guatemala coincided with a particularly dramatic upsurge of violence throughout the country. On 1 August, Danilo Barrillas, a prominent member of the ruling Christian Democrat Party and President Cerezo's special appointee to the short-lived peace talks held in October 1987 in Madrid with the guerrilla movement Unidad Revolucionaria Nacional Guatemalteca, was killed by a death-squad on the street. On 15 August a bomb attack hit the offices of the most important Guatemala-based non-governmental human rights organization Mutual Support Group (GAM) and of the International Peace Brigades (an organization which lends support to people who have received death threats). On 17 August a military patrol killed nine members of a civilian defence patrol and wounded three in the department of Alta Verapaz, reportedly because they had been mistaken for guerrillas. In the week of 21 August seven leading members of the University Student Association (AEU) were kidnapped; the bodies of four of them were found during the second and third weeks of September, bearing marks of torture and severely mutilated. On 24 August the President of the Banco Industrial, Ramiro Castillo, was killed in front of his house by six gunmen. Kidnappings and arbitrary executions continued to take place during the weeks preceding the Special Rapporteur's visit.

178. After having been under military rule for a considerable period, Guatemala has a civilian government since January 1986. The new Government under President Vinicio Cerezo Arévalo committed itself to restore the rule of law in the country. During the first few years of the present administration there was a noticeable improvement in the human rights situation, although reports about disappearances and extrajudicial killings, which had been occurring on a wide scale during the first half of the 1980s, continued to come in. It was, however, in particular after an unsuccessful *coup* attempt on 11 May 1988 that the human rights situation deteriorated rapidly; many people involved in the political process received death threats and the number of bombings, kidnappings and extra-legal executions increased considerably. Another unsuccessful *coup* attempt took place on 9 May 1989. The Special Rapporteur was told that this event had again unleashed a wave of violence, reaching its peak in August. Since the beginning of the year a number of death-squads have made known their existence and have made death threats against a wide range of persons. All this has contributed to an atmosphere of fear in the country which could not but deeply impress itself on the Special Rapporteur.

179. The human rights situation in Guatemala is different from that in many other countries where human rights are violated on a wide scale. In Guatemala the Government is not so much accused of committing human rights violations directly as of failing to guarantee to its citizens the full enjoyment of

their human rights. Violations of human rights are committed by forces within the Guatemalan society which have no direct links with the authorities, but the authorities have so far found no way to put an end to these violations. The question at issue, therefore, is not so much the termination of human rights violations by the authorities in power (as is the case in many other countries) but the prevention and suppression of human rights violations by others. This is recognized by the Government as well. President Cerezo has stated more than once that his administration would concentrate on improving legal structures and processes in order to solve the problem of political violence and prevent future human rights violations. The problem that confronts Guatemalan society can be succinctly summarized in the words of the statement made by the Episcopal Conference of Guatemala on 7 April 1989: "the lack of a serious and conclusive investigation, in accordance with the principle of justice, into a large number of crimes which consequently go unpunished".

180. The 1985 Constitution clearly states in article 3 that the State guarantees and protects human life as well as the integrity and security of the human person. Human rights are well covered in the Constitution which, moreover, states that in the field of human rights the conventions to which Guatemala is party have priority over provisions of internal law (art. 46). Guatemala is a party to the International Covenant on Economic, Social and Cultural Rights but not to the International Covenant on Civil and Political Rights. It is also a party to the American Convention on Human Rights and to the Inter-American Convention to Prevent and Punish Torture. It has accepted the jurisdiction of the Inter-American Court of Human Rights under article 62 of the American Convention on Human Rights, but has made a reservation with regard to the jurisdiction under the Inter-American Convention to Prevent and Punish Torture, to the effect that "under its [Guatemala's] internal legal system, after remedies have been exhausted, a decision acquitting a person presumed to be guilty of the offence of torture is final and may not be submitted to an international forum". The Special Rapporteur shares the opinion of the Expert on Guatemala (E/CN.4/1989/39, para. 16) that this reservation is incompatible with the object and purpose of the Inter-American Convention to Prevent and Punish Torture and at the same time is irreconcilable with Guatemala's recognition of the jurisdiction of the Inter-American Court of Human Rights. The Special Rapporteur was informed by the Vice-Minister for Foreign Affairs that the reservation had been entered for legal reasons only and that political considerations had played no role when it was made: it had been considered incorrect to reopen a case once it was closed. The Government was now willing to withdraw the reservation but the initiative to do so must come from Congress.

181. As for the International Covenant on Civil and Political Rights of 1966, no concrete steps have so far been taken with regard to parliamentary approval. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 has already been recommended by the Congressional Commissions on Foreign Relations and on Human Rights for approval and was reported to have been placed on the agenda of the plenary session of Congress for 21 September 1989. The Human Rights Commission of Congress has also considered recommending to the Government to accept the competence of the Committee Against Torture under articles 21 and 22 of the Convention.

182. Article 6 of the Constitution states that, except for flagrante delicto cases, arrests can only be made by virtue of a warrant issued by the competent judge. An arrested person must be brought before a judicial authority within six hours. He must be informed immediately of the reason for his arrest and this information must also be conveyed to a person of the detainee's choice (art. 7). He has a right to legal counsel and may only be held in official places of detention. Authorities which violate these rules are personally and criminally responsible.

183. The right not to be arbitrarily arrested and detained is guaranteed by the habeas corpus procedure (exhibición personal) (article 263 of the Constitution). The provisions of the Constitution are elaborated in the Amparo, Habeas Corpus and Constitutionality Act of 8 January 1986.

184. Since kidnapping is a very common phenomenon in Guatemala, an effective functioning of habeas corpus is of the utmost importance. The procedure of application for habeas corpus is completely informal (article 85 of the Amparo Act) and in fact a great number of writs of habeas corpus are submitted. Since, however, in most cases the identities of the abductors and the places where the abducted persons are held are not known, the great majority of the habeas corpus proceedings get bogged down. Another explanation given by the authorities for the ineffectiveness of habeas corpus procedures is the fact that relatives are extremely reluctant to testify.

185. According to article 109 of the Amparo, Habeas Corpus and Constitutionality Act of 1986, if a person cannot be found, the court must order the continuation of the investigation of the case. In carrying out their task the courts can request the assistance of the law enforcement authorities. In actual fact, however, most investigations are discontinued in such cases.

186. In an official circular of 27 July 1989 from the President of the Supreme Court to the judiciary, this duty to continue investigations was emphasized: there can be no stay or dismissal of habeas corpus proceedings until the person concerned - whether he be detained, injured or disappeared - is located. Moreover, it was pointed out that officials who frustrate the habeas corpus guarantee by ordering a detainee to be concealed and any executing agents has to be dismissed from their duties and punished according to the law.

187. The President of the Supreme Court readily admitted to the Special Rapporteur that the habeas corpus procedure was not very effective. He blamed this in part on the inefficiency of the investigative system in the country.

188. Both criminal investigations and investigation of unsolved habeas corpus cases are carried out by the police under the authority of the courts and under the responsibility of the Office of the Attorney-General (Ministerio Público). The Attorney-General (Procurador General de la Nación) is appointed by the President for a period of five years and is completely independent. Apart from his other functions he is in charge of criminal investigation. During his talks with the Attorney-General, who had taken office six months earlier, the Special Rapporteur was informed that there was a tremendous shortage of human resources. In each department there was only one prosecutor (fiscal), with two deputies. In the capital itself there were only 14 prosecutors for criminal affairs. The Attorney-General therefore had asked

Congress for a vastly expanded budget in order to be able to appoint 53 new functionaries. As things stood, his office was unable to carry out its most important task. But even with increased manpower, there would be the problem that the actual investigation had to be carried out by the police, who were badly trained and underpaid. The Special Rapporteur was informed that in the past, under the Code of Criminal Procedure, there had been a judicial police, but that in 1982, after a coup d'état, the relevant provisions of the Code had been abrogated. The Attorney-General was of the opinion that the reintroduction of a separate judicial police branch would greatly enhance the effectiveness of the investigative machinery. The judicial police, though belonging to the police force in general, should be accountable only to the Attorney-General.

189. The Attorney-General also complained about the lack of co-operation from the population in bringing evidence. Since the rules on evidence are very strict in Guatemala, in many instances it proved to be impossible to conclude a case and bring it to the court.

190. Both the President of the Supreme Court and the Deputy Procurator for Human Rights confirmed the opinion of the Attorney-General that his Office should be strengthened. They also agreed that at present the police were not able to carry out investigations satisfactorily because of lack of training and lack of equipment.

191. At present the police is made up of three branches: the National Police, which is entrusted with general police tasks, the guardia de hacienda, which is competent in matters of customs and now has the main reponsibility for the control of drug trafficking, and, lastly, the military police which, apart from having the normal military police tasks, may also be used to provide protection for private enterprises. The units entrusted with this latter task are called the military police patrols. In view of the increase in crime and violence, it was decided in August 1988 to co-ordinate the work of the two civilian police forces and the military police patrols in what is known as the Sistema de Protección Civil (SIPROCI) or civil protection system. Since the composing elements belong to different ministries, the system is co-ordinated by both the Ministry of the Interior and the Ministry of Defence and is under the official command of the President. The mere fact that this system, the effectiveness of which is controversial, was set up as an emergency measure is an indication that the police is not up to its task, either quantitatively or qualitatively.

192. The Minister of the Interior informed the Special Rapporteur that steps had been taken to improve the situation. A police academy was to be opened in two months' time. Its capacity was provisionally set for 250 students but would gradually be extended to 1,000. Several groups of policemen received training abroad, whereas several countries provided the police with modern equipment. A training curriculum with great emphasis on human rights issues was in preparation. One great problem, however, could not be solved in the near future: the police were badly underpaid, but due to financial strain the Government was not in a position to raise wages to a satisfactory level.

193. During his talks with the Director General of the National Police the Special Rapporteur was told that a new office had been created within the police about a year earlier. This office, known as the "Professional Responsibility Office" (Oficina de Responsabilidad Profesional), is charged

with the investigation of illegal acts committed by police officers, including ill-treatment of detainees. Sixty police officers have now been trained for this task. Any citizen can file a complaint with the office. When the investigation is concluded, the file, with a summary of its contents, is presented to the Director General, who determines what measures will be taken if the police officer is found guilty. These measures can comprise disciplinary measures, including dismissal from service. The case can also be brought up for a criminal procedure before a court; in that case the file is transmitted to the Attorney-General's office. Since the creation of the office, 500 cases have been taken up, 100 of which have been concluded. The Director General stressed the fact, that apart from the importance of the corrective measures taken in the case of abuse of authority, the mere existence of the office also had a preventive effect. The fact that policemen knew that their conduct might be scrutinized acted as a deterrent.

194. Since 1986 a number of institutions have been created with various tasks in the field of human rights. Article 273 of the Constitution provides for the establishment of a Human Rights Commission of Congress and a Procurator for Human Rights.

195. The Human Rights Commission of Congress is composed of one deputy for each party represented in Congress and presently consists of 13 members. Its most important function originally was the nomination of candidates for the post of Procurator for Human Rights but it has also acquired other tasks, mainly of a legislative character: the Commission can recommend the adjustment or updating of existing laws in the light of the human rights provisions of the new Constitution and the international instruments to which the country is a party. It can also discuss the human rights situation in the country in a general way. As a result of such a discussion the Commission adopted a resolution on 12 September 1989 in which it asked for the appointment by the United Nations Commission on Human Rights of an impartial Special Rapporteur with investigative powers regarding the serious violations of human rights in Guatemala. In this resolution, which was adopted with only one vote against (the representative of the governing party voted in favour), the Commission expressed its concern about the escalation of uncontrollable violence in all sectors of society.

196. During discussions with the Chairman and the Vice-Chairman of the Commission it was said that the Commission had come to the conclusion that the civilian Government had lost control and that international pressure might help to improve the situation. The relationship between the civilian Government and the army had been uneasy from 1986 on. Within the army there were different factions, some of which did not approve of the democratic system, as evidenced by the various coup attempts. It was understood that these factions were gaining strength and were destabilizing the country. International pressure might be needed to strengthen the democratic forces and to curb the anti-democratic factions.

197. The Procurator for Human Rights is appointed by Congress and has, according to the Act of 1986 in which his mandate is elaborated (Ley de la Comisión de Derechos Humanos del Congreso de la República y del Procurador de los Derechos Humanos), broad investigative powers into alleged human rights violations. He is assisted by two deputies. According to Deputy Procurator Figueroa, over 1,200 complaints were filed with the office in 1988, of which 218 were found to be violations; almost all these cases concerned

kidnappings and extrajudicial executions. Although in the case of disappearances, as in other cases of human rights violations, the investigative powers of the Procurator are concurrent with those of the judicial system, he can carry out such investigations independently and the authorities are under a legal obligation to co-operate with him. If they refuse to do so, the Procurator can start a court procedure against them.

198. When the investigation has been satisfactorily concluded and it has been established that a violation has been committed, the case is transmitted to the judge and the Attorney-General, although formally the latter is not dependent on the findings of the Procurator since he can start his own investigation immediately after a crime has been committed. Although the file is transmitted to the judiciary in order to start criminal procedures, the Procurator on Human Rights can publish his findings in a report to Congress. In the notorious El Aguacate case, in which 21 people were killed (according to the Government by guerrillas but according to other sources by the military), the Procurator declared in Congress that the Government had shown negligence in the investigation of that crime and that the Government was responsible since it failed to carry out its duty to ensure the right to life.

199. In spite of the fact that the Procurator has broad powers, many sources expressed their dissatisfaction with the way his mandate was performed. It was said that no clear priorities had been set with regard to various categories of human rights violations (initially much emphasis was given to social and economic problems), and that investigations were not carried out thoroughly. Moreover, it was found highly unsatisfactory that the Procurator's office was situated on the outskirts of the capital and was therefore difficult to reach for the average citizen.

200. In discussion with members of Congress and with the Deputy Procurator it was explained to the Special Rapporteur that there was general agreement that the location was inappropriate but that it had been impossible to find more centrally-located premises as nobody wanted to let offices to an institution with such a madate. Moreover, it was said that the office was badly understaffed since the resources earmarked for the office were far from sufficient.

201. At present the post of Prosecutor for Human Rights is vacant. The first holder of the office, who was out of the country during the Special Rapporteur's visit, offered his resignation a few weeks later.

202. In June 1988 an Advisory Commission on Human Rights Matters to the Office of the President was established. It is composed exclusively of government officials. Its function is to advise the President on matters of human rights. It maintains contact with the other branches of Government, the various ministries, the judiciary and the Attorney-General, but not with Congress. It can recommend additional legislative measures and draw the attention of the various State institutions to shortcomings in the system to guarantee human rights. The Commission has no authority to carry out investigations independently, although the government order by which it was established included in its mandate "the collecting of all the material gathered during inquiries and all the background information available from official and unofficial sources in order to provide full and public information on the enforced or involuntary disappearances that occurred before the present Government took office".

203. Finally, mention should be made of the National Dialogue for Reconciliation, which has been launched pursuant to the agreement concluded in 1987 between the Presidents of the Central American countries with a view to establishing a firm and lasting peace in Central America (Esquipulas II). A wide range of political and social groups and organizations have participated in the Dialogue, including the Unified Representation of the Guatemalan Opposition (RUOG) and the Human Rights Commission of Guatemala, both of which are based outside the country. Neither the Government nor the army are among the participants. When asked by the Special Rapporteur why the army, which is a highly important political force within the country, has chosen not to take part in the Dialogue, the Vice-Minister of Defence replied that under the Constitution the army was an apolitical institution which could not play a role of its own. The decision not to participate was taken by the President in his capacity as Commander-in-Chief of the Armed Forces. Other sources informed the Special Rapporteur that the absence of the army made the Dialogue, to a certain extent, futile. It was said that the National Dialogue was not a legal institution but a forum for finding a way of living together. In view of the dominant position of the army, its refusal to participate might be explained as a refusal to accept commitments for a democratically structured society. It was also said, however, that the Minister of Defence had indicated that the army was reconsidering its position on participation in the National Dialogue.

204. In May 1989 the representatives of the Unified Representation of the Guatemalan Opposition decided to suspend their participation in the Dialogue after having received a number of death threats and after a car bomb had been found in front of their temporary office. One other participant in the Dialogue was killed, and another disappeared in August 1989.

3. Evaluation and recommendations

205. Basic human rights violations such as enforced or involuntary disappearances, torture and arbitrary executions seem to be inextricably linked in Guatemala. There is a noticeable pattern: a person is kidnapped, kept incommunicado, during which period he or she is tortured, and later executed and left in the streets. It hardly ever occurs that a person reappears alive, or that a body is found without marks of torture. In cases where people do not reappear, either dead or alive, it is assumed that their bodies have been secretly buried.

206. Although the common crime rate (including acts of violence) is extremely high in Guatemala and although a number of disappearances may be ascribed to emigration or to the fact that the person concerned has joined the guerrillas or to some other factor and his disappearance cannot therefore be labelled as "enforced or involuntary", the fact that many of the victims were associated with organizations which actively participate in the political or social life, such as trade unions, farmers' organizations and student associations, is a clear indication that many of the human rights violations are politically motivated. The improvements in the field of human rights that could be noted during the first years of the civilian Government have to a large extent been nullified by the developments of the last two years.

207. The institutional mechanisms for preventing and suppressing serious human rights violations show considerable deficiencies. A number of the Special Rapporteur's recommendations will pertain to measures to overcome these deficiencies.

208. The Special Rapporteur feels, however, that his approach would be one-dimensional if he only referred to these instrumental deficiencies. The present human rights situation in Guatemala can only be explained as resulting from the tragic past, and the introduction of a democratic system is obviously insufficient to do away with the effects of this tragic past. It seems to be typical for Guatemala that the most serious human rights violations occur in a kind of *clair-obscur* where lawlessness and violence are rampant, and it seems virtually impossible to penetrate this *clair-obscur* unless there is a strong political will on the part of all political forces to do so. As long as judges who have to carry out investigations, as long as witnesses who have to give evidence, as long as citizens who expose human rights violations constantly receive death threats, no institutional measures will bring about a real improvement. The pattern of disappearances, torture and killings, together with the widespread use of death threats, has created a climate of terror which was compared by one of the Special Rapporteur's sources with a system of psychological torture. According to another governmental source, those responsible for this systematic lawlessness hoped to create in the society a desire for another "iron fist" régime. On several occasions it was pointed out to the Special Rapporteur that, although most of the serious violations of human rights could not be ascribed to the Government, the Government nevertheless seemed reluctant to gain control. As the Expert on Guatemala stated in his report (E/CN.4/1989/39, para. 58): "no Government can feel satisfied if it merely refrains from violating human rights; it is also necessary, indeed indispensable, to have a positive policy to prevent human rights violations from occurring - that policy should guarantee the full enjoyment of all rights for all citizens". Unless the Government is able to develop such a policy there is some justification for the thesis that although the Government is not directly responsible for the human rights violations, it is responsible by omission, *viz*. for its failure to guarantee the right to life and to physical and mental integrity of the citizens. Although it is beyond the Special Rapporteur's mandate to make recommendations in this field, he feels strongly that his recommendations should be seen in the light of the previous remarks.

209. It is clear that the best way to penetrate the *clair-obscur* is to ruthlessly investigate all alleged human rights violations. In order to create conditions under which such investigations can be satisfactorily conducted, it is important to guarantee the security of all persons involved, whether they are members of the judiciary, witnesses or lawyers.

210. Concern was expressed by various sources about the passive attitude of the judiciary in *habeas corpus* proceedings. For this reason the circular of the President of the Supreme Court mentioned in paragraph 14 above, in which the legal obligation to continue the investigation if the person concerned cannot be located was emphasized, must be welcomed. In order to enhance the effectiveness of this circular, however, it is of vital importance to strengthen the existing investigative capacities. First of all, the budget of the Office of the Attorney-General should be considerably increased; all competent authorities agree that that Office is the pivot on which everything in the system hinges and that as long as it is not able to function properly, the system as a whole will not work.

211. As important as the strengthening of the Office of the Attorney-General is the training of the police. In this regard it is noteworthy that a number of officials spoke out in favour of the reintroduction of the judicial police,

as a separate branch of the police. Although significant steps have been taken to improve the quality of the police force (in this respect the establishment of a police academy and the creation of the Professional Responsibility Office may be mentioned), general confidence in the impartiality of the police, which in the past co-operated closely with the military dictatorship, has not yet been restored. The creation of a well-trained separate judicial police, accountable solely to the Attorney-General and through him to the judiciary, might contribute to a greater effectiveness of the judiciary system and, more generally, to a climate of increased confidence in the system. Another experiment which is presently under way and which has been set up with the assistance of the Centre for Criminal Justice of the Harvard University Law School in order to improve the co-ordination between the police and the judiciary may also have a beneficial effect on the functioning of the system. This experiment is geared to a better instruction of the police on how to prepare a criminal case (a great number of such cases are presently dismissed for vice of form or lack of sufficient evidence). According to the Director General of the Police it will, however, take a long time before concrete results are noticeable. In this respect, it may also be noted that the technical asssistance project carried out since 1988 by the Centre for Human Rights of the United Nations Secretariat, in co-operation with the Guatemalan Government, has been striving to strengthen the various Guatemalan institutions responsible for protecting and promoting human rights and to enhance the co-ordination among them.

212. Hardly anyone has been brought to justice for committing crimes like abduction, torture or extrajudicial killing. The mere fact that such heinous crimes go unpunished contributes to the climate of lawlessness and terror. It is widely assumed in the country that a considerable number of these crimes are committed by people belonging to or linked with the security forces, although there is no hard evidence for this assumption, since hardly any investigation has been concluded with positive results. The Special Rapporteur feels that in order to turn the tide it is vitally important to bring to justice every person who has committed or ordered such crimes or has condoned them while in a position to prevent them. The Special Rapporteur has been informed that, in accordance with article 219 of the Constitution, members of security forces who are suspected of having committed a crime against a civilian have to appear before a military court. The Special Rapporteur is of the opinion that confidence in the judiciary system will only be restored if those suspected of committing such crimes against a civilian are tried in the civilian courts.

213. It has been argued that one factor leading to the present legal confusion is the fact that the Procurator for Human Rights and the judiciary have, to a large extent, concurrent responsibility for investigating human rights violations. In this regard it should be borne in mind that broad investigative powers were given to the Procurator for Human Rights precisely because the judiciary system had proved to be ineffective. It has, however, been suggested that the existence of the Procurator's office might function as an alibi for the judiciary not to investigate *habeas corpus* cases as vigorously as they should. Theoretically this may be true, and in the long run a solution to this problem will have to be found. If the judiciary system finally functions satisfactorily, the task of the Procurator for Human Rights could be limited to monitoring the general human rights situation in the country and to an ombudsman-type function. The fact that practically no

investigation has led to conclusive results can, however, hardly be ascribed to this concurrent responsibility but can readily be explained by the security risks encountered by investigators and the lack of co-operation given to them.

214. During his stay in Guatemala the Special Rapporteur also visited the central prison of Pavón. In the spring of 1989 riots broke out there in protest against the prison conditions and the prison régime in general. The Special Rapporteur at that time received allegations that torture used to be practised in Pavón prison and he also received information that after the riots had been quelled prison inmates were severely maltreated. This latter information was confirmed by the inmates during the Special Rapporteur's visit. It was also said, however, that the situation had considerably improved since the appointment of a new prison administration. With one exception, the Special Rapporteur received no complaints about ill-treatment by prison personnel. Prison inmates seem to receive ample opportunity for education and professional training; new facilities are being built, and the atmosphere was relatively relaxed.

215. The human rights situation in Guatemala undoubtedly calls for drastic measures. The Government seems to be well aware of the need for such measures. President Vinicio Cerezo assured the Special Rapporteur that those who were responsible for the recent wave of violence and who were trying to destabilize the democratic system would be brought to justice. He also drew attention to the fact that the rule of law was a recent notion for the country and that the legal institutional system was deficient. Some steps to improve the system had already been taken but needed time to take effect.

216. In this context the Special Rapporteur may make the following recommendations:

(a) All allegations about serious human rights violations, such as harassment (death threats), abduction, torture and killings, should be promptly and thoroughly investigated;

(b) Persons who obstruct such investigations should be immediately brought to court and punished in accordance with the law;

(c) In order to improve investigative capacities the Office of the Attorney-General should be strengthened; consideration should also be given to the re-establishment of a judicial police force as a separate branch of the police;

(d) Meaningful and effective steps should be taken to guarantee the security of all persons involved in the investigation and monitoring of human rights violations;

(e) All persons who are found to be responsible for human rights violations should be prosecuted and, if proved to be guilty, punished; if the victim is a civilian, they should in principle be tried by a civilian court, irrespective of their status;

(f) Training programmes of the police and the security forces should contain human rights courses in which it is emphasized that serious violations of human rights (such as torture) will be severely punished and that no orders to commit such human rights violations may be obeyed;

(g) The findings of the Professional Responsibility Office and the decisions of the Director General of the National Police with regard to those who have been found guilty should be made public, even if only in general terms. The creation of a similar office within the security forces should be considered;

(h) Since most allegations of serious human rights violations were attributed to members of paramilitary groups or death-squads, effective measures should be taken with a view to investigating the identity and membership of such groups and, eventually, dismantling them and bringing those responsible for serious human rights violations to trial;

(i) The Office of the Procurator for Human Rights should be easily accessible to all citizens and be provided with the funds necessary for the effective exercise of its task;

(j) Speedy ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of 1984 and of the International Covenant on Civil and Political Rights would be a meaningful contribution to the prevention and suppression of torture.

B. Visit to Honduras

1. Introduction

217. The Special Rapporteur visited Honduras from 25 to 27 September 1989, in response to an invitation extended to him by the Honduran Government. In Honduras, the visit was prepared and organized by the Inter-Agency Committee on Human Rights of Honduras. During his visit the Special Rapporteur held discussions with the following officials: Mr. Salomón Jiménez Castro and Mr. Roberto Perdomo Paredes, respectively President and Vice-President of the Supreme Court of Justice; Mr. Guillermo Cáceres Pineda, Deputy Minister of Foreign Affairs; the plenum of the Inter-Agency Committee on Human Rights, and General Humberto Regalado Hernández, Commander-in-Chief of the Armed Forces, and members of the general staff.

218. The Special Rapporteur also held discussions with representatives of the Committee for the Defence of Human Rights in Honduras (CODEH), a non-governmental organization headed by Dr. Ramón Custodio, and with Mr. Héctor Orlando Vásquez, chairman of an organization called the Authentic Committee of Human Rights in Honduras (COADEH).

219. The Special Rapporteur visited the Central Penitentiary of Tegucigalpa, where he was briefed by the director and members of his staff, and talked privately with a number of inmates.

220. The Special Rapporteur also visited the offices of the Forensic Medicine Department of the Supreme Court and was briefed by the director, Dr. Denis Castro, about the methods of work of the department.

221. The Special Rapporteur wishes to express his sincere appreciation and gratitude to the Government of Honduras and the Inter-Agency Committee on Human Rights for the preparation of his visit, and in particular to

Mrs. Olmeda Ribera Ramírez of the Ministry of Foreign Affairs, Mr. Rubén Darío Zepeda Gutiérrez, the Attorney-General of the Republic (Procurador General de la República) and Chairman of the Inter-Agency Committee on Human Rights, and Mr. Juan Arnaldo Hernández Espinoza, Prosecutor (Fiscal) of the Supreme Court, who greatly facilitated his contacts with the authorities and kindly accompanied him throughout his visit.

2. Background and legal and institutional framework

222. The history of Honduras is characterized by a series of elected governments alternating with military régimes. With a short interruption from 1971 to 1972, the military have ruled the country from 1954 to 1982. In January 1982 a democratically elected government took office and a new constitution entered into force. General elections were held again in 1985 leading to the present Government of President José Azcona Hoyo who will be in office until January 1990. As a result of the elections in November 1989, the President-elect, Rafael Leonardo Callejas, will be the next head of Government.

223. During the first half of the 1980s, armed guerrilla groups were active in some parts of the country. These groups have, however, been destroyed by the armed forces and the Special Rapporteur was informed by the authorities, including the Commander-in-Chief of the Armed Forces, that they no longer form a threat to national security. The most important threat at the present moment is considered to be the spreading of communism from neighbouring Nicaragua and the guerrilla movement in El Salvador, another neighbouring country. The fact that armed opposition forces from these two countries (the Nicaraguan counter-revolutionary forces, which are fighting the Sandinista Government, and the Salvadorian National Liberation Front Farabundo Martí) carry out raids from bases in Honduran territory complicates the situation. The country, moreover, is host to great numbers of refugees from all its neighbours (Nicaragua, El Salvador and Guatemala). Their total number was estimated to be about 400,000, which roughly equals 10 per cent of the total population of Honduras.

224. According to national, regional and international non-governmental organizations, violations of basic human rights have taken place on a fairly wide scale during the past decade. Initially, there were quite a number of enforced or involuntary disappearances, whereas, in the second half of the decade, the allegations mainly concerned illegal detentions and the practice of torture during these detentions. A number of these allegations have been received by the Special Rapporteur who, in some cases brought them to the attention of the Government with a request for comment. The replies of the Government of Honduras have been recorded in this and in previous reports.

225. The Constitution of 1985 guarantees to all citizens the respect for their human rights, such as the right to life (art. 65) and the right to physical, psychological and moral integrity (art. 68 (1)). The death penalty is abolished (art. 66) and torture and cruel, inhuman or degrading treatment or punishment is absolutely forbidden (art. 68 (2)). A person who has been deprived of his liberty must be treated with respect for his inherent dignity (art. 68 (3)).

226. Honduras is a party to the American Convention on Human Rights of 1969 and has accepted the jurisdiction of the Inter-American Court of Human Rights under article 62 of that Convention. In April 1986 it signed the Inter-American Convention to Prevent and Punish Torture but has not yet ratified it. Although it is a party to the International Covenant on Economic, Social and Cultural Rights, it has not yet ratified the International Covenant on Civil and Political Rights of which it is a signatory, nor has it acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it did not sign at its conclusion. According to article 18 of the Constitution, international conventions have priority over national law, in cases of conflicting provisions.

227. When the Special Rapporteur asked whether the Government intended in the near future to ratify those regional and world-wide human rights conventions to which it is not yet party, the reply was that this was certainly a policy goal. However, at the present moment, the political climate in the country was not appropriate to send these conventions to Congress for their approval. The fact that the Inter-American Court of Human Rights had recently decided that the Honduran Government was responsible for the disappearance of a number of persons in 1981 and 1982 and therefore should pay compensation to their relatives had created a shock in the country. Although the Government intended to comply with these decisions of the Court, the acceptance of new international commitments could at present meet some opposition.

228. According to article 84 of the Constitution nobody may be arrested without a warrant issued by a judge unless the suspect is apprehended in flagrante delicto. Once a person is arrested he must be informed of the reason of his arrest; moreover he must be permitted to inform a relative or some other person of his choice about his arrest. Article 85 says that an arrested person may only be detained at places determined by the law. In any case, nobody may be kept incommunicado for a period longer than 24 hours without an authorization of the competent judge. After six days' investigative detention the detainee has to be brought before the judge who will decide whether he should be remanded or released (article 71 of the Constitution). The decision of the judge that the suspect is to be remanded must be given to him in person and he has to sign a document in which he acknowledges his remand. All these provisions may be suspended in time of emergency (art. 187) but since no state of emergency has been declared recently, these provisions are all applicable. If a person cannot afford to appoint a lawyer of his choice because of lack of means, he will be provided with a lawyer by the authorities (art. 83).

229. During investigative detention it is absolutely forbidden to use force or coercion in order to extract a confession. Only statements made before a judge may be used as evidence (art. 88). A person is presumed innocent unless he has been declared guilty by a judicial body (art. 89).

230. When a person has been arrested and kept in detention in violation of the rules just mentioned or when during that investigative detention he has been tortured or threatened, the habeas corpus procedure may be set in motion. A request for habeas corpus (or exhibición personal) can be made without any formalities; it can be presented in writing or verbally, even by telephone; no authorization is required. A petition for habeas corpus must be filed with the Supreme Court when the person is detained by the army or the police and

with the courts of lower instance if he is held by a civilian authority (art. 182). The Special Rapporteur was informed that a petition for habeas corpus must, in order to be admissible, contain the name of the person, the identity of the detaining authority and the presumed date of detention. The president of the court can initiate the proceeding. Whether the writ of habeas corpus will be granted has to be decided by the court in plenary. When the petition is filed with the Supreme Court, all nine members of the Court (or their alternates) have to be present; no unanimity, however, is required.

231. In case the requirements for the filing of a petititon for habeas corpus cannot be met, it is the duty of the Prosecution Division of the Office of the Attorney-General to start an investigation to determine whether a person has been detained illegally or is suffering ill-treatment, torture, illegal exactions or coercion; to denounce the facts to the competent authority so that the person in question may be delivered and to demand the application of the appropriate sanctions (article 20 (4) of the Ley Orgánica de la Procuraduría General de la República of 1961). The functions of the Prosecution Division are carried out by the Office of the Attorney-General and by the prosecutors of the judiciary bodies (article 21 of the Ley Orgánica). Violation of the rules with regard to arrest and detention, including the practice of torture during this detention, will, according to article 333 of the Penal Code, be punished with two to five years' imprisonment.

232. If a person claims to have been subjected to torture the judge may order the Department of Forensic Medicine to examine him in order to ascertain whether the allegation is justified.

233. In Honduras the police forms an integral part of the armed forces. Law enforcement is entrusted to the Fuerza de Seguridad Pública (FSP) (article 161 of the Constitutive Law of the Armed Forces). The FSP has a plain-clothes investigative division, the Dirección Nacional de Investigaciones (DNI). Most of the alleged human rights violations were attributed to FSP and DNI.

234. The Special Rapporteur was informed by the Commander-in-Chief of the Armed Forces that, formerly, the police were functioning under the authority of the Ministry of the Interior. Since the police were used by the political party in power to further that party's political goals, it was decided, after a coup d'état in 1963, to merge the police with the army in order to give it an apolitical character.

235. According to Honduran law (article 90 (2) of the Constitution), members of the armed forces are to be tried by military tribunals if they have violated the law. Article 91 of the Constitution (reiterated in article 35 of the Code of Criminal Procedure and article 235 of the Constitutive Law of the Armed Forces), however, rules that in case a member of the armed forces has committed a crime against a civilian or a military person who is not in active service, a civil court will be competent to try the case. In actual practice, however, members of the armed forces are never tried by civilian tribunals. The Special Rapporteur has noted that article 91 is interpreted differently by the civilian courts and by the armed forces. According to the President of the Supreme Court civilian courts are always competent if a military and a civilian are involved. All human rights violations committed by members of the armed forces against a civilian should come, therefore, before a civilian

court. According to the armed forces, however, it is the status of the person who has committed the crime which determines the competent tribunal. If he is a member of the armed forces the case will be heard by a military tribunal.

236. In 1985, amendments to articles 90 and 91 of the Constitution were adopted by Congress, but will have to be approved by the new legislature, elected in November 1989, in order to enter into force. According to the amendment to article 90, military tribunals cannot have jurisdiction over persons who do not belong to the armed forces except in cases provided by the law; the Special Rapporteur was informed by the military that this amendment was necessary in order to prevent civilians going unpunished if they were involved in a crime which was only punishable under military penal law, such as: incitement to mutiny. The amendment to article 91 says that in cases where a military and a civilian are involved, the civilian courts will be competent if the alleged infraction of the law can be characterized as an offence under normal penal law.

237. The Special Rapporteur was informed by the President of the Supreme Court that he was not in favour of these amendments as their entering into force would detract from the competence of the civilian court in matters in which civilians were involved and which therefore should be dealt with by civilian courts.

238. If a member of the police or the military is suspected of having acted in violation of article 333 of the Penal Code (illegal detention, torture, etc.), for example, as a result of a habeas corpus procedure, the Supreme Court informs the Ministry of the Interior who should request the competent military authorities to take the appropriate steps. If the suspected person is a high-ranking officer, the case is reported to Congress, which in turn informs the President as Supreme Commander-in-Chief.

239. The Special Rapporteur was informed by the authorities that the recently appointed director of police had dismissed some 100 policemen who had abused their authority. He was also informed that more than 1,200 members of the police and of the armed forces had been brought to trial or disciplined because of illegal arrest and/or torture and that presently 15 policemen were serving prison sentences.

240. The Special Rapporteur, however, was unable to find in the documentation provided to him, detailed information about the charges brought against and the sentences passed on such members of the police and the military, nor could he find a breakdown of the various crimes committed by them.

241. In 1987, the Inter-Agency Committee on Human Rights was established to monitor the human rights situation in the country and co-ordinate the various activities of the different branches of the State. Its task is mainly advisory, although in practice it investigates allegations which have been reported to the Government by United Nations human rights procedures and mechanisms, regional organs and non-governmental organizations. It is composed of representatives of the Congressional Commission for the Application of the Constitution, the Supreme Court (represented by its prosecutor), the Ministry of the Interior, the Ministry of Foreign Affairs and the Armed Forces. It is chaired by the Attorney-General of the Republic. It is an independent body which reports directly to Congress and to the President. The Committee has an auxiliary staff which can carry out, in an

informal way, investigations on alleged violations of human rights; the staff has direct access to police-stations and military barracks. If an allegation has been found to be justified the competent authorities are invited to take the necessary steps to start a criminal procedure.

242. According to information from non-governmental sources received by the Special Rapporteur, legal provisions, in particular those regarding arrest and detention, are violated on a wide scale. It was said that very often arrests were made without a legal warrant, that the arrested person was not allowed to make use of his constitutional right to have his relatives informed, that the 24-hour rule was not respected as arrested persons were often held incommunicado for up to seven days or more, and that during this period of incommunicado detention they were regularly tortured (the most common methods being: beating, the application of electric shocks, hooding - leading to near asphyxiation - and psychological threats). During his visit the Special Rapporteur was provided by a non-governmental organization with a file containing 572 cases of alleged torture, committed between 1980 and 19 September 1989). Furthermore, it was stated that the judiciary were not sufficiently active in taking up habeas corpus procedures, that allegations about torture were not investigated in a serious way and that steps were hardly ever taken to prosecute members of the police or the armed forces on the charge of violation of article 333 of the Penal Code.

3. Evaluation and recommendations

243. The political climate in Honduras seems, to a high degree, to be determined by strongly-held ideological positions. The spread of communism is seen as the most important threat by the authorities, in particular by the armed forces which have a very important place in the State structure. The oldest and most important non-governmental human rights organization (CODEH) is regularly accused of making unfounded allegations for political reasons. A member of the judiciary told the Special Rapporteur that nowadays practically every suspect claims that he has been tortured, but that these allegations very rarely turn out to be well-founded.

244. After a visit of merely three days, the Special Rapporteur is not in a position to determine whether the allegations about the widespread practice of torture are well-founded or whether the authorities are right when they maintain that the majority of these allegations are made for political reasons.

245. The mere fact, however, that according to the civil and military authorities more than 1,200 members of the police and the military have been punished or disciplined for abuse of authority is in itself an indication that the fundamental human rights which are guaranteed by the Constitution and by international instruments are not fully respected. During a briefing by the head of the Department of Forensic Medicine, the Special Rapporteur was informed that during the month of May 1989 three out of 15 allegations of torture had proved to be well-founded. And a member of the Supreme Court stated that although all arrests must be carried out on the basis of warrants, in reality there were many cases in which arrests were made without such a warrant.

246. The human rights situation, therefore, certainly gives rise to concern. As the great majority of the allegations received by the Special Rapporteur refer to torture practised during incommunicado detention beyond the 24-hour

limit, it seems of the utmost importance to strengthen the compliance with the constitutional provisions on arrest and detention. In order to enable the competent authorities to enforce more effectively compliance with these provisions, their position should be strengthened. The judiciary should be in a position not only to take up effectively habeas corpus procedure in order to establish the whereabouts of a person who has temporarily disappeared but also to carry out investigations to determine whether allegations of illegal detention and/or torture are well-founded. It seems, however, that the organs which have to carry out a judicial order to start an investigation, or can do so ex officio, are diffuse and that their various competences are not well defined. The Supreme Court has it own prosecutor's office, whereas the Prosecutor Division of the Office of the Attorney-General seems to be understaffed and hardly capable of carrying out its task efficiently. In a speech made recently by the Prosecutor of the Supreme Court, the incumbent official stated that his function, in practice, was no more than that of a technical agent, an advisor to the judge or magistrate. He complained that during his professional career he had not known of even one case in which the prosecutor's office had been in a position to actually bring a case to court.

247. The establishment of a strong and independent prosecutor's office (fiscalía) within the Office of the Attorney-General, through the appointment by Congress of an official with a well-defined responsibility for the carrying out of criminal investigations and the recognized competence to bring cases to court, could considerably strengthen the guarantees for the respect for human rights. The Special Rapporteur was informed that a merger of the two offices was envisaged on the basis of a study prepared by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Criminals (ILANUD). An even more important shortcoming, however, is that the competent organs do not dispose of a police force which is solely responsible to these organs. The Special Rapporteur feels that, in general, the police should be separate from the armed forces and should be subordinated to either the Ministry of Justice or the Ministry of the Interior. Since the police has as its main task the maintenance of public order, it should be in principle a civilian institution. This is even more important when invstigations have to be carried out on the instruction of the civilian authorities. As long as the police have not been placed under the civilian authorities, but continue to be a part of the armed forces, it seems appropriate to establish a judicial police which will be accountable solely to the civilian authorities.

248. It should be stressed that the idea of establishing a judicial police force was suggested by various authorities. When asked about his position in that respect, the Commander-in-Chief of the Armed Forces replied that he was in total agreement with it, although he feared that it would not be feasible in the near future for financial reasons. Nor did he reject the idea of placing the police in general again under the Ministry of the Interior if the President should decide so. He would actually welcome such a measure since under the present circumstances any violation committed by the police was imputed to the army.

249. Whenever an investigation has led to the preliminary conclusion that an illegal arrest had been made, that persons were kept in illegal detention or that detained persons had been tortured, steps should be taken immediately to bring to trial the officials who have abused their authority. The Special Rapporteur strongly feels that if such an abuse of authority has been committed with regard to a civilian, the civilian courts should have

jurisdiction irrespective of whether the abusing official belongs to the military. The rights of civilians by their very nature can best be protected by an open procedure in a civilian court. Treatment of such cases by military tribunals may easily lead to the suspicion of a cover-up. In arresting and interrogating civilians who are suspected of criminal behaviour, law-enforcement officials carry out an essentially civilian task and should therefore be accountable to civilian authorities. Whatever the correctness of interpreting article 91 of the Constitution on the basis of juridico-historical considerations may be, the Special Rapporteur feels that the rule of law is best served by taking this article in its literal sense.

250. Another problem that requires attention is that of the many detainees who stay without legal assistance for a considerable period of time. None of the five detainees interviewed by the Special Rapporteur during his visit to the central penitentiary had a lawyer, although they had been arrested during the second half of July and were under formal investigative detention since the beginning of August. According to the Constitution, the State is under an obligation to provide an attorney for the poor. In these specific cases doubt was expressed by the authorities about the inability of the persons concerned to pay a lawyer of their own. The Special Rapporteur was informed that a pilot project had recently been started, funded by the Government, to comply with this constitutional obligation. The Special Rapporteur expresses the hope that this project will be expanded in the near future, so that every detainee will be able to have legal assistance from the moment of his arrest.

251. In the great majority of the allegations received by the Special Rapporteur, it was stated that a detainee was blindfolded immediately after his arrest and was kept in that situation until he was presented to the competent judge. Although blindfolding as such cannot be considered a form of torture, it very often is an indication that torture may be practised and that the blindfold is applied to prevent recognition of the interrogators by the detainee. In addition it should be pointed out that blindfolding creates an atmosphere of uncertainty and anxiety and puts the detainee under pressure. Blindfolding of detainees should therefore be absolutely forbidden and punishable by law.

252. Although previous allegations also referred to torture practised in official prisons, the Special Rapporteur has no indication that this is still the case. During his interview with detainees in the central penitentiary no complaints were made about torture or ill-treatment by the present prison administration. The prison, where general conditions seemed to be rather liberal and easygoing, is nevertheless severely overcrowded (holding between 1,500 and 1,800 inmates, whereas it was originally designed for a population of 1,000). It was also said that the food was poor in quality and insufficient in quantity. Although the Constitution (art. 86) states that a detainee who has not yet been tried should be kept separate from persons who are serving a prison sentence, no such separation is applied in the central penitentiary. The authorities admitted that this was not in conformity with the law but stated that it was impossible, for financial reasons, to change that situation in the foreseeable future. Since, however, plans were said to be under way to alleviate the urgent problem of overcrowding, they should be developed in such a way as to ensure, to the greatest extent possible, the achievement of a situation such as the one prescribed by the Constitution and the various international human rights instruments.

253. In order to prevent torture and other violations of basic human rights, training of law enforcement personnel is highly important. It is to be welcomed that the Security Forces (FSP) in June 1988 officially adopted the United Nations Code of Conduct for Law Enforcement Officials. The Special Rapporteur was also informed that a greater emphasis on human rights was to be given in training programmes in co-operation with, among others, the Inter-American Institute for Human Rights in San José, Costa Rica.

254. A remark made in passing to the Special Rapporteur, namely that the Honduran Constitution reads like a human rights treaty, is basically correct: all guarantees for the protection of human rights are soundly anchored in the Constitution. Neither is there reason to doubt the sincerity of the Government's intention to take its reponsibility with regard to the protection of human rights seriously. The establishment of the Inter-Agency Committee on Human Rights in 1987 is only one token of that intention. If, none the less, the respect for basic human rights, in actual practice, is less well guaranteed than may be deduced from the Constitution, this may be due to some structural weaknesses in the system which is entrusted with the task of protecting these rights. The Special Rapporteur is not in a position to evaluate whether these weaknesses can be cured in the near future. They may be the result of financial strains but also of political controversies. He feels, however, that it is his duty to make the following recommendations:

(a) A strong and independent office of a public prosecutor (fiscalia) should be established within the Office of the Attorney-General. It should be competent to investigate, ex officio, all crimes, including the violation of human rights by officials, and to bring such cases to court;

(b) Steps should be taken to bring back the police under civilian authority; as an initial measure, a judicial police force should be established in order to enable the judiciary and the public prosecutor to carry out their function properly;

(c) Officials who have abused their authority by seriously violating basic human rights, including torture, should be brought to trial without delay and, when found guilty, severely punished. Since the abuse of authority with regard to civilians is a common crime, irrespective of whether it was committed by civilian or military officials, civilian courts should deal with such cases in conformity with article 91 of the Constitution;

(d) Each detainee who cannot afford to pay a lawyer should be provided with legal counsel within 24 hours after his arrest;

(e) Only evidence obtained during interrogation in places of detention determined by the law and under normal conditions should be admitted in court;

(f) In the training programmes of all military and law-enforcement personnel, high priority should be given to the necessity of respecting basic human rights under all circumstances;

(g) Ratification of the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture would be a meaningful contribution to the prevention and suppression of torture.

C. Follow-up to visits

255. By letters dated 23 June 1989, addressed to the Governments of Peru, the Republic of Korea and Turkey, the Special Rapporteur requested those Governments to inform him of any measures they may have taken in pursuance of the recommendations made following his visits to their countries (see E/CN.4/1989/15, paras. 187, 208 and 233, respectively).

Republic of Korea

256. On 12 October 1989 the Government of the Republic of Korea addressed a letter to the Special Rapporteur, containing a detailed description of measures taken in pursuance of the aforementioned recommendations. The letter read as follows:

> "Recommendation (a)
>
> "Police officials are to be punished unless they observe the articles 72, 87 and 213 (2) of the Code of Criminal Procedure, concerning the arrested person's right of prompt access to a lawyer and the obligation to inform the arrested person's relatives about the arrest.
>
> "This year new measures have been introduced to protect the human rights of suspected persons when they are requested to appear voluntarily and report to the police, as follows:
>
> - They are able to refuse the request.
> - They shall be informed, in advance, of the place where they are to report; they shall have the right to leave the police premises at any time.
> - Their relatives shall be informed of the reason why the suspected persons are asked to report to the police and the persons' whereabouts.
> - They shall be permitted to correspond with their relatives without delay.
> - They shall not be forced to reply against their will.
>
> "Recommendation (b)
>
> "The 48-hour rule and the 10-day period are to be strictly observed.
>
> "Especially upon the instruction of the Director General of the National Police on 4 June 1988, every case which does not take a 10-day period to investigate should be brought before the prosecutor within seven days with the aim of protecting the human rights of the accused, as much as possible.
>
> "Recommendation (c)
>
> "The Supreme Public Prosecutor's Office has given instructions not to investigate a case elsewhere than officially recognized locations.

"The Court of Justice has made it practice to reject evidence obtained from the detainee at unauthorized places.

"Recommendation (d)

"Due consideration has been given to strengthening of the staff of the prosecutor's office.

"Under article 198 (2) of the Code of Criminal Procedure, 1,800 inspections have been carried out to investigate whether illegal detention has occured or not from 1 October 1988 to 30 June 1989.

"Recommendation (e)

"From 1 October 1988 to 30 June 1989, there were 207 sessions of human rights education for the 2,950 staff of the prosecutor's office.

"During the same period, 135 sessions of general education for the protection of human rights have been held for 2,762 police officials.

"Recommendation (f)

"Studies have been undertaken with regard to giving an independent status to the human rights counselling offices or establishing another independent body.

"As regards policemen's violence or cruelty, the articles 124 and 125 of the Criminal Code stipulate its strict prohibition.

"As a result of the official investigations, 26 officials who have abused their authority have been punished in accordance with the above-mentioned articles of the Criminal Code, from 1 October 1988 to 30 June 1989.

"Recommendation (g)

"The Korean Government has been taking the necessary measures to accede to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocol. The proposals of accession to these Covenants have been submitted to the regular session of the National Assembly of 1989 for its approval.

"The Government is also taking the necessary steps to become a party to the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment in 1990."

Turkey

257. As regards the recommendations made by the Special Rapporteur following his visit to Turkey, it may be noted that a note verbale dated 19 October 1989, entitled "Some recent legislative developments in Turkey", has been received from the Permanent Mission of Turkey to the United Nations Office at Geneva. Sub-chapters II and III of that document, entitled "Shortening of detention

periods" and "Right to consult one's attorney", respectively, seem to be of particular relevance to the Special Rapporteur's recommendations. They read as follows:

> "Shortening of detention periods
>
> "Detention period for individual offences is 24 hours. However, for collective offences it can be extended to 15 days by obtaining permission from the public prosecutor or by court order in urgent circumstances.
>
> "In accordance with a proposed amendment in the Code of Criminal Procedure, the duration of the detention period for collective offences which fall within the jurisdiction of the ordinary criminal courts is to be lowered from 15 days to 4 days.
>
> "For offences which fall within the jurisdiction of State security courts, this period is lowered from 15 days to 6 days. This 6-day detention period may be extended to 10 days, if the offence is committed by more than 10 people, for 5 years after the bill is passed. Such a provision needs to be kept for a period of 5 years to be able to handle the collective crimes which still continue to be committed in Turkey.
>
> "Right to consult one's attorney
>
> "Article 136 of the current Code of Criminal Procedure foresees that defendants may consult with one or more attorneys during every phase of their interrogation. In accordance with this article, the Ministry of Justice, on 15 April 1986, has issued a circular pointing to this right of the defendant.
>
> "The contents of the above circular have been confirmed through instructions issued on 26 September 1989 by the Prime Minister to the Ministries of Justice and the Interior.
>
> "Instructions issued at the highest level of the Government contain the following elements:
>
> > "- According to article 36 of the Turkish Constitution, everyone has the right of litigation either as plantiff or defendant before the courts through lawful means or procedure.
> >
> > "- Furthermore, article 136 of the Turkish Code of Criminal Procedure foresees that at any and every stage of the proceedings the accused shall have the right to seek the advice of, and be represented by, one or more counsel. The said article has been based on the reasoning that everyone has the right not to be arbitrarily brought before the courts. Therefore, everyone must be entitled to fully exercise his or her right to defence at any and every stage of the investigation, including the preliminary interrogation.
> >
> > "- In view of the foregoing, it is concluded that any person under custody who requests to meet the defence counsel can do so during the preliminary interrogation.

> "- On the other hand, according to article 143 of the Turkish Code of Criminal Procedure, where it is considered that the purposes of the investigation will not be jeopardized, defence counsel may be accorded access to examine all papers and documents relative to the investigation, before the indictment is submitted to the court.
>
> "- Furthermore, the present legislation contains also safeguards against the abuse of the above rights, aiming at ensuring the sound conduct of the investigation. Article 144 of the Turkish Code of Criminal Procedure clearly states that a person under detention may at any time meet, confer and correspond with his attorney. According to the same article, until the opening of the final investigation, the judge may prohibit the disclosure of facts or other information unsuitable for the cognizance of the accused. Depending upon the nature of the charges and, where necessary, until the opening of the final investigation, the judge personally, or his duly appointed delegate, or a rogatory judge, may be present during the meetings between the accused and his counsel.
>
> "- Within the framework of the relevant provisions of the Turkish Code of Criminal Procedure, all officials who carry out the investigations in their capacity as deputies of the public prosecutor have been requested to allow, upon the instructions of the public prosecutor, any person under detention willing to meet his or her attorney, to do so."

258. On 17 November 1989 the Special Rapporteur received a communication from the Permanent Mission of Turkey to the United Nations Office at Geneva providing further information relative to the recommendations made by him following his visit to that country. The communication read as follows:

> "An information note on proposed amendments to the legislation regarding the detention period and on the possibility of the lawyers to have access to their clients under interrogation has already been sent to the Special Rapporteur.
>
> "All detained persons go through medical examination before and after the interrogation. The medical examination is carried out by physicians completely independent from security officials.
>
> "The institution of 'Ombudsman' seems to be not applicable to the Turkish legal system. According to the Turkish Constitution, all acts of the executive branch of the State are placed under the supervision of the judicial power, which is completely independent in the discharge of its functions. The Special Rapporteur has already been provided with information on ways and means to investigate torture complaints.
>
> "According to the present legislation, torture is a crime which requires the imposition of severe penalties.

"Any allegation of torture properly brought before the competent judicial authorities can be pursued as a separate legal case before the independent courts. Moreover, the complaints can be referred to the European Commission of Human Rights after domestic legal means to pursue the case are exhausted. This has been the procedure followed by Messrs. 'Haydar Kutlu' and Nihat Sargin.

"There has been an increase in the number of the relevant human rights documents used in the training programmes for law enforcement personnel. In this context, it is worth mentioning that a book entitled Human Relations and Torture written by a Turkish judge and Human Rights and the Police prepared by the Committee of Experts for the Promotion of Education and Information in the Field of Human Rights, which is a body of the Council of Europe are in general use. Moreover, Human Rights in Prisons, which is another book prepared by the Council of Europe, will soon be introduced in the training programmes for the personnel of the penitentiary institutions."

V. CONCLUSIONS AND RECOMMENDATIONS

259. Though the fight against torture has considerably intensified during the last decade, torture still remains a common phenomenon in today's world. Over the past few years there have been hopeful developments in a considerable number of countries; in other countries, however, there has been a clear deterioration. The number of countries where torture is systematically applied may have decreased during that period, but at the same time it has become apparent that torture is far from exceptional in situations where it does not form part of a system. The sad conclusion must be drawn that respect for the inherent dignity of all human beings, irrespective of their race, creed and, most of all, their political conviction is still painfully underdeveloped. This should inspire the international community with renewed energy to continue the fight for the eradication of the horrendous crime of torture. All hopes for a stable, just and peaceful world - hopes which have been greatly nourished over the past year - will turn out to be idle if we do not succeed in instilling in mankind the basic requirement for a stable, just and peaceful world: the respect for the inherent dignity of the fellow human being.

260. The Special Rapporteur was in particular alarmed by the fact that he received a number of allegations referring to torture of children and juveniles. Torture is horrifying in all its forms and emanations, but the idea of children, who are still in their formative stage, being tortured is mind-boggling indeed. The fact that these alleged events took place at about the same time as the adoption by the international community of the Convention on the Rights of the Child glaringly illustrates how far this world is still removed from practising the standards it sets itself.

261. Education in the field of human rights, therefore, seems one of the most urgent tasks the international community has to tackle. The fact that the United Nations has launched a World Public Information Campaign for Human Rights is an important step in that direction. The primary responsibility for human rights education lies with Governments, who may be assisted in this vast task by private organizations. The world, however, cannot wait until this educational process takes effect; those in particular who are in a position that makes it possible for them to violate their fellow human beings' right to human dignity and physical and mental integrity must receive training how to deal with persons who have been brought under their control. In this respect the adoption by the General Assembly, by its resolution 43/173 of 9 December 1988, of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment must be highlighted.

262. This document contains principles which, in part, had already been recognized in human rights conventions and resolutions of the organs of the United Nations - sometimes in even stronger form - such as, for example, the Standard Minimum Rules for the Treatment of Prisoners. The importance of this new Body of Principles lies in the fact that they are now contained in a document which can function as a check-list for Governments to see whether their legal provisions and administrative practices are in conformity with these principles, and to take corrective measures if this is not the case. In the covering resolution the General Assembly "urges that every effort be made so that the Body of Principles becomes generally known and respected", a recommendation which is addressed to all States. Another important aspect is that the Body of Principles applies to all forms of detention or imprisonment,

whatever the form of deprivation of liberty may be. Everybody who is deprived of his liberty is entitled to the protection provided by the document. A third element which has to be noted is that no exception is made for times of emergency. Since an earlier draft contained a reference to such situations, it has to be assumed that the principles must be applied under all circumstances. The Body of Principles contains many elements which are of direct relevance to the prevention of torture and actually echo a number of recommendations the Special Rapporteur has made in previous reports; some of these may be referred to here.

263. Principle 11 states that a person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. Since torture is often practised immediately after arrest, this prompt hearing by a judge may be a guarantee for the arrested person's physical integrity. The legality of his detention can be considered and his right of access to legal counsel can be secured.

264. Of no less importance are principles 12 and 23, which prescribe the duty to record the circumstances at the time of arrest and of interrogation. Especially relevant is the duty to record the identity of the officials who are responsible for the arrest and the interrogation. Torture usually takes place under conditions which make it impossible for the victim to recognize his interrogators and torturers. Complaints filed afterwards are therefore often unsubstantiated as regards the alleged perpetrators.

265. Other elements which have relevance to the prevention of torture are the duty to give the detainee access to legal counsel (principles 17 and 18), the duty to inform his relatives promptly about the arrest (principle 19) and to provide him with medical care and have him medically examined (principles 24 and 25). With regard to the latter issue the Special Rapporteur would have preferred a stronger wording in line with the recommendation made by him in last year's report and repeated in paragraph 272 (d) of the present report.

266. Of similar importance is principle 27, which states that non-compliance with the provisions contained in the Body of Principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person. Next to the rule that evidence which itself is obtained by torture is not admissible in court, this provision contributes to reducing the incidence of torture.

267. Another principle which deserves mention is principle 29, which prescribes regular inspection of all places of detention by an independent inspection team. The significance of such a system of visits, preferably by international teams, as a preventive measure can hardly be overestimated.

268. Principle 34 states that each death occurring during detention or imprisonment or shortly afterwards must be investigated by a judicial or other impartial authority. This principle is similar to a recommendation the Special Rapporteur made in one of his previous reports.

269. Finally, principles 7 and 33 are of great importance for the prevention and repression of torture. Principle 33 lays down the right of a detained or imprisoned person to file a complaint about torture or other maltreatment to which he has been subjected. Principle 7 states that any act contrary to the rights and duties contained in the Body of Principles should be prohibited by

law and that such acts should be made subject to appropriate sanctions. Highly relevant for the prevention of torture is paragraph 3, which gives any person who has grounds to believe that a violation of the principles has occurred, the right to report the matter to the authorities in order to have it investigated.

270. Compliance with the Body of Principles, as urged by the General Assembly, would make torture during detention or imprisonment virtually impossible. This will only be the case, however, if the international community responds to requests by Governments for assistance in the field of training and provision of modern equipment which offers better guarantees for the physical and mental integrity of detained persons. Respect for human rights does not come by itself; nor is it merely dependent upon the political will of the authorities, indispensable though this political will may be. Respect for human rights often also calls for costly investments. The Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights is of vital importance in this respect and States should enable it to carry out its task by providing it with the necessary financial means.

271. In many allegations the practising of torture is ascribed to members of the security forces. In most countries it is a long-established rule that people belonging to the military who are suspected of having committted an offence have to stand trial before a military tribunal. This rule may be explained by the fact that from time immemorial the military have had their own *esprit de corps*, which is still appropriate in the case of offences that have a typically military character, such as desertion or mutiny. The rule, however, makes no sense at all in cases where members of the security forces have seriously violated a civilian's basic human rights. Such an act is an offence against the public civil order and, consequently, should be tried by a civilian court. Torture is forbidden under all circumstances and this prohibition applies to all officials, whether military or civilian. It therefore cannot be seen as having any relationship to the specific functions of the military. As the civilian courts are responsible for the administration of justice in general with a view to protecting the civil public order, the civilian courts should be competent to try all offences against the civil public order, whoever may have committed them.

272. In the light of the foregoing, the Special Rapporteur wishes to make the following recommendations, most of which will follow the general pattern of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment:

(a) Since a great number of the allegations received by the Special Rapporteur referred to torture practised during incommunicado detention, incommunicado detention should be prohibited;

(b) Other allegations referred to torture practised during illegal detention before a detainee was presented to a judge. Those who act contrary to the rules prescribed for a lawful arrest should be subjected to appropriate sanctions;

(c) Any person who is arrested should be given access to legal counsel no later than 24 hours after his arrest; his relatives should be informed promptly of his arrest and the place where he is detained;

(d) Any person who is arrested should be medically examined immediately after his arrest. Such examination should take place regularly, and in any case should be compulsory whenever the detainee is transferred to another place of detention;

(e) All interrogation sessions should be recorded; the identity of all persons present should be included in the records. Evidence obtained from the detainee during non-recorded interrogations should not be admitted in court;

(f) All places of detention should be regularly inspected by independent inspection teams. Such teams should be allowed to speak with detainees in private;

(g) In every case of death of a person during his detention or shortly after his release, an inquiry into the cause of death and the circumstances surrounding it should be held by a judicial or other impartial authority;

(h) Everyone should be entitled to file a complaint about torture or severe maltreatment with an indepedent authority; the official in charge of the investigation of the detainee's case cannot be considered to he an independent authority;

(i) Whenever a person is found to be responsible for acts of torture or severe maltreatment he should be brought to trial; if found guilty, be should be severely punished;

(j) The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners should be translated into national languages and used as teaching material during training courses for law enforcement personnel and members of the security forces entrusted with the task of protecting internal law and order. In particular, such personnel should be instructed on their duty to disobey orders received from a superior to practise torture.
